

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.5818 of 2016
Date of Decision : 28.03.2016.**

Shri Guru Ram Dass & Company

.....Petitioner

Versus

State of Punjab and others

..... Respondents

**CORAM: HON'BLE MR.JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI**

Present : Mr. K.K.Goel, Advocate for the petitioner.

S.J.VAZIFDAR, ACTING CHIEF JUSTICE (ORAL):

The petitioner has challenged the decision of the respondents to invite fresh tenders for the year 2016-2017 for loading and unloading of food grains and stock articles for storage centre, labour cartage and PEG godowns for labour.

2. Three bids were submitted. In response to the notice inviting tenders the technical bids of two of the bidders were found to be ineligible. The respondents therefore invited fresh bids. This decision is challenged. The petitioner's bid was therefore the only responsive bid.

3. The petitioners contend that in view of clause-9 of an internal communication from the Director Food & Civil Supplies & Consumer Affairs, Government of Punjab to all Deputy Directors (Field) and District Controllers, Department of Food & Civil Supplies & Consumer Affairs, the respondents were bound and liable to open the petitioner's financial bid and

to negotiate better rates with them. Clause 9 of this communication reads as under:-

“9. The tenderers have to fill the rates as per ASOR rates as shown in Annexure-O for loading and unloading of food grains as per cluster of grain market. If only single tender is received then tenders can be recalled. On recalling only one tender is received then by negotiations consent is given to execute the work as per ASOR basic rates and the tender is not finalised then their District Tender allotment committee by way of negotiations can award the tender at less or higher ASOR rates. The detail report of justification has to be sent regarding this to the Head Office”.

(emphasis supplied)

4. Relying upon the sentence emphasized in clause-9 it is contended that the respondents are entitled to invite fresh tenders only if a single tender has been received. It is further contended that in the present case three tenders were received and therefore, the respondents are not entitled to invite fresh tenders.

5. The submission is not well founded. The term “tender” in the sentence emphasized refers to valid tenders and not to ineligible tenders. One of the purposes of inviting tenders is to ascertain which is the most suitable one including with reference to the price. An invalid tender at least normally does not assist the party inviting tenders in this exercise. This is a factor which indicates that the term 'tender' refers only to valid tenders.

6. In any event a party inviting tenders is not bound to accept even the highest tender much less the only tender.

7. In the present case, the petitioner's tender was the only valid

tender. Therefore, the respondents received only a single tender. The other two tenders having been held to be ineligible cannot be considered to be tenders received by the respondents.

8. In the circumstances, the petition is dismissed.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

28.03.2016

Manoj Bhutani

(ARUN PALLI)
JUDGE