

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

CWP-8174-2016

Date of decision:- 26.05.2016

Ram Singh

...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.B.Raheja, Advocate, for the petitioner.

Mr. Alok Jain, Additional Advocate General, Punjab.

Mr. Charanjit Singh Bakshi, Advocate,
for respondent No. 3.

Mr. Jaspal Singh Maanipur, Advocate,
for respondent No.4.

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S.J. VAZIFDAR, A.C.J. (ORAL)

CM No. 6223 of 2016

Written statement filed on behalf of respondent No.4
is taken on record and the application stands disposed of.

CWP No. 8174-2016 (O&M)

The petitioner has challenged the official
respondents' rejection of his tender being non-responsive.

2. There is no dispute regarding the petitioner's
eligibility to bid for the works which involves labour and
cartage of food grains. The only ground on which the
petitioner's bid has been considered to be non-responsive is
that he did not pay fees of Rs.500/- per tender form. The
petitioner submitted his bid for five works. The aggregate fee
for the forms was, therefore, Rs.2500/-.

3. We will assume that clause-10 which requires the payment of Rs.500/- per form is mandatory. In the facts and circumstances of the case, it would make no difference. The present tender process was initiated on account of the two earlier tender processes having been scrapped/abandoned. In respect of the first tender process, the petitioner had submitted bids for five works. He submitted the requisite Earnest Money Deposit (EMD) and the forms fee in respect of each of them. The official respondents had adjusted the EMD paid in respect of the first tender process towards the EMD in the present tender process. The EMD is an important aspect. The EMD paid in the first tender process was sufficient to cover the EMD in the present tender process and the respondents, therefore, accepted the same. We see no reason then why the form fee of Rs.500/- per tender form paid under the first tender process should not be adjusted against the form fee in the present tender process. The first tender process was not scrapped due to any default on the part of the petitioner. It was scrapped only because he was the sole bidder. It would be unfair to reject the petitioner's bid only on the ground that Rs.500/- per form was sought to be adjusted and not paid in the fresh tender process.

4. If the petitioner's bid is found to be L-1, he would have been entitled to be allotted the work. However, on account of the bid being rejected, the work was allotted to respondent No.4. Respondent No.4 cannot be faulted. He has performed the

work and therefore, ought to be paid for the same irrespective of the fact that the petitioner's bid was wrongly rejected. Respondent No.4 has also completed the work for this season. However, the work for '*Rabi*' season remains.

5. In the circumstances, the petition is disposed of by setting aside the rejection of the petitioner's tender as being non-responsive. The official respondents shall evaluate the petitioner's financial bid. If it is found to be L-1, the petitioner shall be entitled to be awarded the balance work under the tender. Respondent No.4, however, shall be paid the amount due under the work order for the work already done in this season subject to any other adjustments.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(ARUN PALLI)
JUDGE

26.05.2016
ravinder