

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

103

**Civil Writ Petition No.9137 of 2016
Date of Decision:13.05.2016**

Vinod Kumar

....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**

- 1. Whether Reporters of local papers may be allowed to see the judgement?**
- 2. To be referred to the Reporters or not?**
- 3. Whether the judgment should be reported in the Digest?**

Present: Mr.R.K.Girdhar, Advocate
for the petitioner

Mr.Rajinder Goyal, Addl. AG Punjab

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

A short affidavit dated 12.05.2016 on behalf of respondents No.1 to 3 has been filed in the Court and the same is taken on record.

2. The petitioner has challenged the rejection of his tender on the ground that he is not eligible. The respondents issued a notice dated 26.04.2016 (Annexure P3), inviting e-tender for various civil works of converting a canal system from non-perennial to perennial by relining the canal from one section to another. Bids were invited in respect of nine sections of the canal. The petitioner submitted his bid in respect of the 7th item in the tender notice. Clause 3 of the eligibility for participation/conditions for pre-qualification reads thus:

“3. *Experience in irrigation works should qualify*

one of the below given three criteria's of having successfully completed works during the last 7 years.

(i) Three completed works costing not less than the amount equal to 40% of the estimated cost in any one year.

or

(ii) Two completed works costing not less than the amount equal to 50% of the estimated cost in any one year.

Or

(iii) One completed work costing not less than the amount equal to 80% of estimated cost in any one year.”

3. The petitioner claims to be qualified in view of clause 3 (iii). He relies upon a certificate issued by the Executive Engineer stating that he has executed the work of reconstruction in respect of another canal at a cost of about ₹ 1.70 crores during the single closure in the year 2013-14. However, the certificate itself states that the work was in respect of two sections of Middha Minor. The notice inviting tenders in respect of that work was similar to the one which is the subject matter of this petition. In that case also separate bids were invited in respect of various sections of the canal. The petitioner had bid for three of them. Admittedly separate bids were invited and separate bids were tendered. More important, separate contracts were entered into and separate work orders were issued. Each of the works therefore is separate and distinct and cannot be clubbed together to constitute a single item of work. The eligibility conditions set out earlier require “one completed work” of the value indicated therein. The works already executed did not constitute

one completed work but three completed works. The petitioner's bid therefore cannot be considered to be eligible in view of Clause 3 (iii).

4. In that view of the matter, it is not necessary to consider the other submissions raised on behalf of the respondents.

5. The petition is accordingly dismissed.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(ARUN PALLI)
JUDGE

May 13, 2016
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