

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

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**Civil Writ Petition No.9329 of 2016
Date of Decision:13.05.2016**

Manjeet Singh Janda

....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.S.S.Rangi, Advocate
for the petitioner

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

The petitioner had earlier filed CWP No.25791 of 2015 to challenge the respondents' action in considering the bids of other respondents. We dismissed the writ petition observing that the service provider had filed an affidavit confirming that the bid which was quoted by another bidder was not accepted by the system. The glitch was that once the system accepted a bid it did not accept another bid of the same amount. In other words, the report confirmed the respondents' contention that there was a technical problem in the system. Due to the glitch the bid of the 6th respondent being the same as that of the petitioner, was rejected by the system.

We observed that there was no reason for us without the benefit of oral evidence to doubt the statements of the software engineer and the respondents to the effect that there was a glitch in the system.

2. The subsequent process adopted by the respondents of a draw of lots was carried out in the presence of a former judge of this Court and senior officers of the government. We accordingly dismissed the petition and observed that the petitioner was at liberty to adopt proceedings for appropriate reliefs in respect of the contention that the allegation that there was a glitch in the system was false.

3. This petition seeks the same relief on the basis of a reply under the Right to information Act, 2005 (for short 'RTI'). The petitioner sought the information under the RTI only after the earlier petition was disposed of. The petitioner raised the following questions and received the corresponding answer under the RTI Act.

<i>Sr.No.</i>	<i>Specific details of information required</i>	<i>Punjab Infotech Reply</i>
1	Information regarding breakdown of server or in the System which took place between 9.00 am to 11.00 am on 30.11.2015, while receiving bids, in respect E-tendering of Harta mine bids, falling in Hoshiarpur District	There was no breakdown of server or in the system.
2	If so, whether there is any authentic proof of breakdown of the server, then complete detail of duration of the same and cause of the said breakdown/glitch	

In these two questions, the petitioner did not raise the precise question that he raised in the earlier writ petition and has raised in this writ petition namely that there was a glitch in the

system. The inquiry under the RTI is; “Whether there was a breakdown of server or in the system?” This information therefore does not carry the petitioner's case further.

4. It is important to note that the precise question that falls for our consideration was raised in question Nos.3 and 4 and were answered in the negative. Question Nos. 3 and 4 and the answers thereto read as under:

<i>Sr.No.</i>	<i>Specific details of information required</i>	<i>Punjab Infotech Reply</i>
3	Whether the system program was designed to accept more than one bid at the same rate at the same time.	No
4	If so, how many cases, bids at the same rates, were accepted by the server, during the year 2015	

5. These answers itself militate against the petitioner's contention and support the respondents' contention. They reiterate that the system did not accept more than one bid of the same amount.

6. Faced with this, the petitioner relies upon the reply of the Director Mining, Department of Industries and Commerce, Punjab, Chandigarh. The question there was : “If one bidder (sic.) fills the lowest rate can another bidder fill the same rate?”. The answer is in the affirmative.

7. Indeed the bidders are entitled to bid any rate. That however is not the question. The question is whether the system could have accepted more than one bid of the same amount. The answer therefore is of no assistance to the petitioner. In any event,

the answer of the service provider itself militates against the petitioner's contention. Even if the answers under the RTI Act and those by the Director, Mining are contradictory, it would not be possible in a writ petition under Article 226 of the Constitution of India to resolve the dispute.

8. The petition is accordingly dismissed.

(S.J. VAZIFDAR)
ACTING CHIEF JUSTICE

(ARUN PALLI)
JUDGE

May 13, 2016
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