

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 13640 of 2017

Date of Decision: 3.7.2017

M/s Munish Kumar Bansal

....Petitioner.

Versus

State of Punjab and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE AMIT RAWAL.**

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

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the decision dated 16.5.2017 (Annexure P-10) of the Technical Evaluation Committee, vide which its bid has been considered as non-responsive. Further, a writ of mandamus has been sought directing the respondents to consider the bid of the petitioner as responsive and open its financial bid.

2. Respondent No.4 vide tender notices dated 5.4.2017 (Annexures P-1 and P-2, respectively) invited online bids for two works as numerated in para 2 of the writ petition. As per general conditions (Annexure P-3), the bidder should have executed any similar nature of work of at least 40% of the value of the proposed contract within last five years and should have demonstrate that it had assured ownership to key of items

by equipment. In response thereto, the petitioner and four other persons submitted their respective bids for the said works. Along with the bids, the petitioner had also uploaded all the requisite documents including the performance certificates (Annexures P-4 to P-6, respectively), purchase order dated 25.4.2017 (Annexure P-7) for the batch type Hot Mix Plant, the receipt dated 4.5.2015 (Annexure P-8) of the money received as advanced payment for purchase of Hot Mix Plant and the certificate (Annexure P-9) certifying that in case the work is allotted, the Hot Mix Plant shall be procured and installed before the start of the work. The technical bids submitted by the bidders including that of the petitioner were evaluated by Technical Evaluation Committee on 16.5.2017. As per the minutes of the Committee dated 16.5.2017 (Annexure P-10), the bids submitted by M/s M/s Shivam Construction Company, Malout, M/s Gurbachan Singh Contractor, Bathinda, M/s Royaldeep Construction Pvt. Ltd., Bathinda were declared responsive whereas the bids submitted by the petitioner and M/s Prem Bathala were considered as non-responsive. Further, the same Technical Evaluation Committee evaluated the bid of the petitioner for other works to be technically responsive vide decision dated 3.4.2017 (Annexure P-11). Accordingly, the petitioner moved a representation dated 22.5.2017 (Annexure P-12) to respondent No.4 with copies to respondents No.2 and 3 for declaring its bid technically responsive, but no response has been received till date. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has sent a representation dated 22.5.2017 (Annexure P-12) to respondent No.4 with copies to respondents No.2 and 3, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.2 to take a decision on the representation dated 22.5.2017 (Annexure P-12), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of ten days from the date of receipt of certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

July 3, 2017
gbs

(AMIT RAWAL)
JUDGE

Whether Speaking/Reasoned

Yes

Whether Reportable

Yes/No