

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 16152 of 2017

Date of Decision: 25.7.2017

Manohar Chand

....Petitioner.

Versus

Food Corporation of India and another

...Respondents.

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

PRESENT: Mr. Anurag Chopra, 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, *inter alia*, prayed for issuance of a writ in the nature of mandamus for declaring the tender process carried out by respondent No.1 in pursuance to the tender inquiry dated 1.6.2017 (Annexure P-1) whereby the technical bid dated 30.5.2017 (Annexure P-3) submitted by him for the appointment of HTC at Kila Raipura has been rejected vide impugned email/communication dated 20.7.2017 (Annexure P-6), to be illegal and arbitrary; to direct respondent No.1 to consider the technical bid dated 30.5.2017 (Annexure P-3) of the petitioner for HTC Kila Raipur in pursuance to the tender inquiry dated 1.6.2017 (Annexure P-1) and to direct respondent No.1 to initiate fresh tender process in the event whereby respondent No.2 has been found to be single tenderer in the said tender inquiry. Further, a writ of prohibition has been sought for restraining

respondent No.1 for allotting the work for HTC Kila Raipur in pursuance to technical evaluation and for opening of financial bids of the successful bidders. Also a writ of certiorari has been prayed for quashing the email/communication dated 20.7.2017 (Annexure P-6) whereby the technical bid of the petitioner has been found non-responsive.

2. Respondent No.1 in pursuance to the Notice Inviting Tender under the two bid system invited the parties for the appointment of HTC at Centre Kila Raipur for a period of two years vide tender inquiry dated 1.6.2017 (Annexure P-1). In response thereto, the petitioner submitted his bid dated 30.5.2017 (Annexure P-3) for the appointment of HTC, Kila Raipur through the E-Procurement System reflecting the date of submission as 30.5.2017 (Annexure P-2). The tender inquiry had to be opened on 1.6.2017 but the same was opened on 20.7.2017. Since the previous contract was to be terminated on 21.7.2017, respondent No.1 opened the bids submitted by the tenderers. The technical bid of the petitioner was rejected while the technical and financial bid of respondent No.2 was accepted by respondent No.1. Respondent No.1 informed the petitioner that he had inadvertently not mentioned the name of the centre in his affidavit. The petitioner moved a representation dated 14.7.2017 (Annexure P-4) to respondent No.1 for opening his bid, but to no effect. Thereafter, the petitioner sent a legal notice dated 19.7.2017 (Annexure P-5) to respondent No.1 for considering his technical bid. However, respondent No.1 vide email/communication dated 20.7.2017 (Annexure P-6) rejected the technical bid of the petitioner. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has moved the representation

dated 14.7.2017 followed by the legal notice dated 19.7.2017 (Annexure P-5) to respondent No.1, but no action has so far been taken thereon. He, however, prayed that liberty be granted to the petitioner to file a detailed and comprehensive representation before respondent No.1 by incorporating the grievance as raised in the present writ petition, however, direction be issued to the said respondent to decide the representation expeditiously in a time bound manner in accordance with law.

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 granting liberty to the petitioner to file a detailed and comprehensive representation raising all the pleas as raised in the present writ petition before respondent No.1 within three days from the date of receipt of certified copy of the order. It is directed that in the event of a representation being filed by the petitioner, the same shall be decided by respondent No.1 in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner and respondent No.2 within a period of seven days from the date of receipt of the representation.

(AJAY KUMAR MITTAL)
JUDGE

July 25, 2017
gbs

(AMIT RAWAL)
JUDGE

Whether Speaking/Reasoned

Yes

Whether Reportable

No