

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-16571-2017

Date of Decision: 28.7.2017

M/s Kulbir Singh & Company, Kurukshetra

....Petitioner.

Versus

Haryana State Warehousing Corporation and others

...Respondents.

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

PRESENT: Mr. Sanjiv Gupta, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this 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 communication dated 7.6.2017 (Annexure P-4) issued by respondent No.2 vide which the petitioner was found to be technically dis-qualified in respect of State Warehouses, Pipli, Ismailabad, Kurukshetra-I and Kurukshetra-II and to quash the order dated 5.6.2017 (Annexure P-5) awarding contract to respondent No.3. Further, a writ of mandamus has been sought directing respondents No.1 and 2 to consider the claim of the petitioner as qualified and to open its financial bid.

2. The petitioner is engaged in the business of lifting the contract for loading/unloading and handling of foodgrains and allied items of Haryana State Warehousing Corporation under Guarantee Scheme. A

notice, Annexure P-1, inviting e-tender was issued for appointment of

contractor for loading/ unloading and handling of foodgrains and other notified commodities at Haryana State Warehousing Corporation Godowns at State Warehouse Kurukshetra-I, Kurukshetra-II, Pipli, Ladwa and Ismailabad for FCI stocks under the Guarantee Scheme. In response thereto, the petitioner submitted its tender online along with the earnest money. As per the terms and conditions of the tender, the last date of submission of tender was 23.5.2017 and the tender was to be opened on 24.5.2017. However, the same was rejected as communicated to the petitioner on 7.6.2017 received on 9.6.2017 on the ground that the tender form was incomplete. According to the petitioner, the tender form in original along with all the required documents was submitted. On similar pattern, the petitioner applied for contract for Dharsaul Mandi and it was awarded the contract vide office order dated 11.4.2017 (Annexure P-2) and details were given in the table of comparison dated 11.4.2017 (Annexure P-3). The tender in question has been rejected by respondent No.2 vide letter dated 7.6.2017 (Annexure P-4). Earlier, the petitioner filed CWP No. 13815 of 2017 in which notice of motion was issued by this Court vide order dated 19.6.2017 for 17.7.2017. Thereafter, the private respondent filed CM No. 8939 of 2017 for being impleaded as a party and also placed on record a copy of the office order dated 5.6.2017 (Annexure P-5) vide which respondent No.3 was allotted the tender. The said writ petition came up for hearing before this Court on 17.7.2017, on which date, counsel for the petitioner made a statement for withdrawal of the writ petition with liberty to challenge the office order dated 5.6.2017 before the competent authority. This Court vide order dated 17.7.2017 dismissed the writ petition as withdrawn with liberty to the petitioner to take recourse to the remedies as

available to it in accordance with law. Since the counsel for the petitioner did not press the said application, CM No. 8939 of 2017 was also dismissed as withdrawn. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that the petitioner shall make a detailed and comprehensive representation before respondent No.2 by incorporating the grievance as raised in the present writ petition. He, however, prays that a direction be issued to respondent No.2 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.2 within a period of one week 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.2 in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner and respondent No.3 within two weeks from the date of receipt of representation.

(AJAY KUMAR MITTAL)
JUDGE

July 28, 2017
gbs

(AMIT RAWAL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No