

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

**CWP No.21495 of 2017
Date of decision:23.10.2017**

M/s Balaji Road Lines

... Petitioner

Vs.

Food Corporation of India and others

... Respondents

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

Present:- Mr. Vikas Bishnoi, Advocate
for the petitioner.

Mr. K.K.Gupta, Advocate
for respondents No.1 to 4.

AJAY KUMAR MITTAL, J. (ORAL)

1. In this writ petition filed under Articles 226 and 227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari for quashing of the information/order dated 18.07.2017 (Annexure P-5) and 21.08.2017 (Annexure P-8) vide which the petitioner had been disqualified.

2. Learned counsel for the petitioner inter alia submitted that the technical bid of the petitioner was illegally rejected and the contract has been awarded to respondent No.5, in response to the e-tender published on 16.06.2017 (Annexure P-1).

3. Upon notice of motion having been issued on 21.09.2017,

written statement on behalf of respondents No.1 to 4 has been filed. In the preliminary objection taken by the respondents, it has been categorically stated that it was an essential condition of the tender under Clause 20 of the terms and conditions of Tender Notice/NIT (Annexure P-1) to upload all pages of the NIT and Corrigendum issued thereafter failing which the Tender was liable to be rejected. Clause 20 reads thus:-

“20. Bidder should upload all pages of NIT and corrigendum issued thereafter if applicable duly signed by bidder failing which the tender will be liable for rejection.”

4. It has further been averred that even in the Tender Submission Undertaking dated 11.07.2017 (Annexure P-3) appended at page 33 of the writ petition, under Clause 5, the petitioner had given the undertaking that in case any provision of the Tender was found violated, the FCI shall without prejudice to any other right or remedy be at liberty to reject the Tender including forfeiture of the earnest money deposit (EMD).

5. According to the preliminary objection, the petitioner had not uploaded page no.3 of the NIT which has been appended as page no.24 of the writ petition. Accordingly, the Regional Technical Bid Evaluation Committee consisting of three senior officers expert in the field, recommended the rejection of the Technical Bid of the petitioner and the said recommendations were duly considered by the Competent Authority. Thereafter, the bid of the petitioner was rejected and the EMD of the petitioner was refunded back. Respondent No.5 was found to be eligible being lowest tenderer and the contract was awarded in its favour, vide letter

dated 21.07.2017.

6. Learned counsel for respondents No.1 to 4 was directed to produce the original record for the perusal of the Court which has been produced today. On perusal of the record, it was noticed that technical bid of respondent No.5 *vis-a-vis* documents submitted by the petitioner, the stand taken by respondents No.1 to 4, in the written statement was justified. The record has been returned back after perusal.

7. In view of the above, we do not find any justification to interfere in exercise of the powers under Articles 226 and 227 of the Constitution of India. Finding no merit in the writ petition, accordingly, the same is hereby dismissed.

(AJAY KUMAR MITTAL)
JUDGE

(AMIT RAWAL)
JUDGE

October 23, 2017

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Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No