

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-25348-2017

Date of Decision: 7.11.2017

M/s Parkash Asphaptings & Toll Highways (India) Ltd., Indore

...Petitioner

Versus

State of Haryana and others

...Respondents

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

PRESENT: Ms. Munisha Gandhi, Senior Advocate with
Mr. Vaibhav Sharma, 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 letter dated 24.10.2017 (Annexure P-5) issued by respondent No.2 seeking revised financial offers after opening of the financial bids and after the bidders having already been determined as highest to lowest, i.e., H1, H3 and H3. Further, a writ of mandamus has been sought directing respondent No.2 not to reject the bid of the petitioner and not to accept the subsequently obtained revised financial offers of any other bidder ranked lower than the petitioner.

2. Respondent No.2 invited E-Tenders for collection of toll from 4 No. Toll Plaza of Manesar-Palwal Section (RD. 83.320 km to RD. 135.650 km) of 6 Lane Kundli-Manesar-Palwal (KMP) Expressway Project on the

State of Haryana at (i) Km 83+474 (ii) Km 98+111 (iii) Km 107+803 and (iv) Km 132+650 through a competitive and transparent public bidding process involving issuance of Request for Proposal (RFP) document dated 27.7.2017 (Annexure P-2). In pursuance thereto, the petitioner submitted its bid on 16.10.2017. In addition to the petitioner, two more bidders, i.e., respondents No.6 and 7 had also submitted their respective bids. All the three bidders were qualified and their financial bids were opened on 16.10.2017. The rate of “Annual Remittance” quoted by the petitioner was found to be the highest. The Letter of Award was issued in favour of the petitioner by respondent No.2 being the highest bidder (H1). However, respondent No.3 vide email dated 21.10.2017 (Annexure P-3) requested the petitioner to attend the negotiation meeting to finalize the tender for Manesar-Palwal Section to be held on 24.10.2017 at 1 PM in the office of respondent No.2. In response thereto, the petitioner vide letter dated 23.10.2017 (Annexure P-4) sent via email to respondent No.3 while referring to Clause 3.3.1 of the RFP submitted that the bidder who offers the highest “Annual Remittance” would be considered the 'Selected Bidder'. Again respondent No.4 vide letter dated 24.10.2017 (Annexure P-5) directed the petitioner to attend the negotiation meeting with its revised financial offer in a sealed cover at 12.30 PM on 26.10.2017. Thereafter, the petitioner sent a letter dated 25.10.2017 (Annexure P-6) to respondent No.4 for the cancellation of the negotiation process and to decide the subject matter as per the provisions contained in the Bid Document and the directions issued by the Central Vigilance Commission of India, but no response has been received till date. However, respondent No.3 sent e-mail dated 28.10.2017 (Annexure P-7) to the petitioner in reference to the

meeting held on 26.10.2017 wherein the H2 and H3 bidders had submitted their revised offers in the sealed envelopes to be opened at 11.00 AM on 30.10.2017 at the Head Office of Haryana State Industrial and Infrastructure Development Corporation Ltd. at Panchkula. 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 letter dated 25.10.2017 (Annexure P-6) to respondent No.5, 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.3 to take a decision on the letter dated 25.10.2017 (Annexure P-6), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner and respondents No.6 and 7 within a period of seven days from the date of receipt of the certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

November 7, 2017
gbs

(AMIT RAWAL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No