

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No. 25694 of 2017
Date of Decision: 21.12.2017

Bhoomi Bhawan

.....Petitioner

versus

State of Punjab and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE S.J.VAZIFDAR, CHIEF JUSTICE
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU, JUDGE.

Present : Dr. Anmol Rattan Sidhu, Senior Advocate with
Mr. Shiv Kumar Sharma, Advocate, for the petitioner.

Mr. PPS Thethi, Addl. Advocate General, Punjab.

Mr. Rupinder Khosla, Senior Advocate with
Mr. Sarvesh Malik, Advocate, for respondent Nos.2 and 3.

Mr. A.K.Chopra, Senior Advocate with
Mr. Ankit Midha, Advocate, for respondent No.4.

S.J.VAZIFDAR, CHIEF JUSTICE (ORAL)

The petitioner has challenged the respondents' decision to accept the 4th respondent's bid at an e-auction in respect of a plot of land. The petitioner has questioned the *bona fides* of the respondents and has challenged the bidding process at auction.

2. The bids were submitted on-line. Guidelines were issued for participation in the e-auction. The parties were to sign up and obtain the user-ID and password on the portal. Clause B-5 of the guidelines stipulates the date and time of the auction. The auction was to close at 3.00 PM on 08.11.2017. In case a bid was received five minutes prior to the time fixed for closure of the bids, the time for closure of the auction would be extended automatically by fifteen minutes. There were to be a maximum of two such extensions and post this the auction would be closed.

3. It is important to note that these terms and conditions do not prohibit a bidder from submitting multiple bids. More relevant these terms and conditions do not prohibit a bidder from submitting back to back consecutive bids to wit successive bids without the intervention of a counter bid by any other bidder. A bidder was, therefore, entitled to enhance his own bid or as Dr. Sidhu puts it he was entitled to bid against himself. It is this aspect which is challenged by the petitioner.

4. Towards the end of the auction, respondent No.4 submitted four bids in quick session leaving a gap of a little over one second between each bid. The fourth last bid was at 15:29:55.419 and the last bid was at 15:29:59.132. The petitioner contends that on account thereof the site was blocked making it impossible for any party to submit a bid in the intervening period of less than three seconds.

5. Although the petitioner has raised an interesting and an important issue regarding the bidding process, we are not inclined to entertain this petition for more than one reason. Firstly as Mr. Midha, the learned counsel appearing on behalf of respondent No.4 rightly pointed out, the petitioner has himself submitted back to back, successive bids without the intervention of a counter bid by any other party. The petitioner, therefore, participated in the auction without challenging the stipulated process. More important, the petitioner himself adopted the same procedure and has sought to challenge the system only after having failed to outbid the fourth respondent. Secondly, as Mr. Midha again rightly points out, it is evident from the bid sheet that there are parties who have infact submitted bids within a second or just over a second of the bid of another bidder. It is not possible, therefore, especially in a writ petition to state with any degree

of certainty that it was impossible for the petitioner to submit a bid during the last approximately three seconds.

6. Having said that, however, we do find that the point raised by the petitioner requires consideration by the parties inviting tenders namely, respondent No.2-Punjab Urban Development Authority and respondent No.3-Greater Mohali Area Development Authority. It is always open to them to modify the process to ensure better results in the future.

7. We are not inclined to interfere in the present process for this is part of a trial and error method. No interference is warranted merely because a better system may be devised in future. We do not find any *mala fides* on the part of the respondents inter-se or otherwise.

8. Dr. Sidhu on taking instructions stated that if afforded an opportunity the petitioner undertakes to submit a bid of at least ₹ 90 crores which is about ₹ 5 crores higher than the 4th respondent's bid of about ₹ 85 crores. Mr. Khosla stated that respondent Nos.2 and 3 are also interested in maintaining the sanctity of the auction process and that merely because a higher bid is submitted later, it is no ground for their abandoning the auction already held.

9. It is for the official respondents to decide whether or not in view of this offer to invite fresh bids or to confirm the bid in favour of the 4th respondent.

10. The petition is accordingly disposed of.

(S.J. VAZIFDAR)
CHIEF JUSTICE

21.12.2017
ravinder

(HARINDER SINGH SIDHU)
JUDGE

Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No