

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-26447-2017

Date of Decision: 20.11.2017

Eagle Hunter Solutions Ltd., New Delhi

....Petitioner.

Versus

Pt. Bhagwat Dayal Sharma, University of Health Sciences, Rohtak & others

...Respondents.

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

PRESENT: Mr. Aashish Chopra, Advocate,
Mr. Ajiteshwar Singh, Advocate and
Ms. Gurpreet Randhawa, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Article 226 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the order, if any, to be passed by respondent No.1 disqualifying its technical bid. Further, a writ of mandamus has been sought directing respondent No.1 to consider the bid of the petitioner along with the bids of other participants and not to consider, open and evaluate the bids of respondents No.2 and 3.

2. Respondent No.1 issued a First Notice Inviting Tender (Annexure P-2) on June 20, 2017 for procuring security service for protection of its personnel and property including machinery and equipment as also its inhabitants. The last date of submission of bids was July 21, 2017 upto 1.00 PM whereas the date of opening of technical bids was July

21, 2017 at 3.00 PM. As per the tender terms of the first tender, each page of the submitted bid and executed tender documents was required to be signed and stamped by each participant. A corrigendum dated 22.7.2017 (Annexure P-3) was issued by respondent No.1 that a pre-bid meeting would be held on 17.8.2017 at 3.00 PM while the technical bids were to be opened on 29.8.2017 at 3.00 PM. In response to the tender, the petitioner submitted its bid and uploaded the requisite documents on the portal of the State of Haryana. Apart from the petitioner, respondents No.2 and 3 had also submitted their respective bids. The petitioner was allotted Bid No. 187974 whereas respondents No.2 and 3 were allotted bid Nos. 189618 and 189386, respectively as is clear from the tender summary report, Annexure P-4. Another corrigendum dated 29.8.2017 (Annexure P-5) was issued by respondent No.1 extending the last date of receipt of tenders to 8.9.2017 at 1.00 PM and the date of opening of technical bid on 8.9.2017 at 3.00 PM. After the said corrigendum, the website of respondent No.1 as also the E-portal of the Government did not reflect the tender ID of the first tender and a new tender (Annexure P-6) bearing ID No.2017_HRY-5177-1 (in short “the second tender”) was generated which consisted only 35 pages. In response thereto, the petitioner submitted its bid and uploaded the documents as is clear from the bid submission confirmation and the bid acknowledgment (Annexure P-7 Colly). The petitioner was allotted Bid No. 191305. As per E-portal of the Government, total seven bids were submitted in the second tender and the bid of the petitioner was accepted as is discernible from the tender summary report, Annexure P-8. However, respondents No.2 and 3 had not participated in the second tender. On 25.9.2017 and 26.9.2017, the petitioner was orally informed that a few of

the pages as submitted on the E-portal went missing. The petitioner moved a representation dated 27.9.2017 (Annexure P-9) to respondent No.1 that if the pages were lost due to any technical error then the same can be verified by the corresponding hard copies and not to reject its bid on technical grounds. In pursuance thereto, respondent No.1 vide letter dated 6.10.2017 (Annexure P-10) informed the petitioner that the technical committee would hold a meeting to consider the representation, Annexure P-9 and directed the petitioner to appear before the said committee on 9.10.2017 at 12 noon. On the said date, the petitioner appeared before the committee who deferred the decision of the representation to 10.10.2017 and vide communication dated 9.10.2017 (Annexure P-11) directed the petitioner to appear before the said Committee. On 10.10.2017, the petitioner again appeared before the Committee, but no decision was taken on the representation of the petitioner. However, as per the minutes of the meeting dated 27.9.2017 (Annexure P-12), the representation of the petitioner was rejected by the Technical Committee. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that the petitioner shall 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.

It is directed that in the event of a representation being filed by the petitioner within three days from today, the same shall be decided in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within seven days from the date of receipt of the representation.

(AJAY KUMAR MITTAL)
JUDGE

November 20, 2017
gbs

(AMIT RAWAL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No