

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-26568-2017

Date of Decision: 21.11.2017

M/s Bhagwati Trading Company, Ferozepur Cantt.

....Petitioner.

Versus

Punjab Agro Foodgrains Corporation Limited, Chandigarh and another

...Respondents.

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

PRESENT: Mr. Sandeep Khunger, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. The petitioner has approached this Court by way of instant writ petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the letter dated 10.1.2017(Annexure P-4) sent by e-mail to the petitioner vide which the tender was allegedly accepted even after withdrawal of its bid after the expiry of stipulated period of 30 days on 6.1.2017 and the order dated 5.6.2017 (Annexure P-9) passed by respondent No.2 ordering for not refunding the Earnest Money Deposit (EMD). Further, a writ of mandamus has been sought directing the respondents to refund the earnest money deposited by the petitioner in response to e-tender for disposal of damaged wheat.

2. The respondents invited e-tenders from the parties registered with the Food Corporation of India/Food and Supplies Department for

disposal of 79377.280 Mts of damaged wheat vide e-tender dated 28.11.2016/7.12.2016. As per the terms and conditions (Annexure P-1), tenderers were required to deposit an amount of ₹ 5000/- (non-refundable) and ₹ 7,63,400/- as earnest money. The tenders were to be opened on 5.12.2016 which was extended upto 7.12.2016 vide notice, Annexure P-2. On the said date, the tenders were opened by the respondents and the offer of the petitioner was highest. However, the tender was to be accepted within a period of thirty days, i.e., 6.1.2017 but the same could not be accepted. The petitioner vide letter dated 6.1.2017 (Annexure P-3) withdrew the offer and requested the respondents for refund of the earnest money. The respondents vide letter dated 10.1.2017 (Annexure P-4) sent through e-mail, accepted the offer of the petitioner. The petitioner vide letter dated 7.2.2017 (Annexure P-5) informed the respondents that the offer made by it already stands withdrawn prior to its acceptance by the respondent and requested for refund of the earnest money. In response thereto, the respondents vide letter dated 13.2.2017 (Annexure P-6) informed the petitioner that by extending the period for 10 days for acceptance of the financial bids, the bid was open for 40 days and directed the petitioner to lift the stock. The petitioner vide letter dated 22.3.2017 (Annexure P-7) requested the respondents for refund of the earnest money by informing that the tender was valid upto 4.1.2017 and the offer was withdrawn vide letter dated 6.1.2017. Thereafter, the counsel of the petitioner moved an application dated 28.7.2017 (Annexure P-8) under the Right to Information Act, 2005 regarding the status of the application for refund of the earnest money. In response thereto, the respondents sent a reply along with documents (Annexure P-9), a perusal thereof shows that after obtaining the

legal advice from the Legal Adviser, it was proposed by the officials vide noting dated 16.3.2017 that the earnest money be refunded to the petitioner and wheat may be re-tendered. However, the earnest money was not refunded to the petitioner till date. 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.2 by incorporating the grievance as raised in the present writ petition, however, a direction be issued to the said respondent to decide the same 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 one week. It is directed that in the event of a representation being filed by the petitioner within one week 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 two weeks from the date of receipt of the representation.

(AJAY KUMAR MITTAL)
JUDGE

November 21, 2017
gbs

(AMIT RAWAL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No