

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 6974 of 2016
Date of Decision : 22.02.2017

Narinder Kumar

...Petitioner

Versus

State of Punjab and others

...Respondents

CORAM: *HON'BLE MR. JUSTICE S.J. VAZIFDAR, CHIEF JUSTICE*
 HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL

Present: Mr. K.K. Goel, Advocate for the petitioner.

 Mr. Alok Jain, Addl. Advocate General, Punjab.

 Mr. S.P. Garg, Advocate for respondent No. 5.

S.J. VAZIFDAR, C.J.(Oral)

The petitioner has challenged the official respondents' rejection of his tender for the work relating to the transportation, cartage and labour in respect of food grain.

On 10.03.2016 bids were invited in respect of the said work.

As no bid was received, a fresh tender was issued on 21.03.2016. Clause 24 (iv) of the terms and conditions reads as under:-

“24. The qualification for transport contractor for technical bid for all the districts are mentioned below:

(i) to (iii) XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

- (iv) *For transporting the tender must have counting of the truck as per cluster. The tenderer has to handover the copies of the registration to the district tender committee at the spot. If he has to hire truck from any truck union then an undertaking/agreement of that truck union has to be furnished of the consent of the truck union for providing trucks alongwith registration of the truck and list of the trucks. Even copy of the agreement has to be produced.”*

The petitioner uploaded the details of the vehicles owned by him. Copies of the registration of these vehicles were not required to be scanned and uploaded and were to be made available at the spot. The petitioner's case is that when the bids were opened on 21.03.2016, he had the copies of the registration in respect of the said vehicles. The official respondents state that they received a complaint from respondent No. 5, the Janta Truck Operator Union Lehra Gaga, to the effect that the list of trucks, which was uploaded by the petitioner, was totally fake and false. Respondent No. 5 called upon the official respondents to ascertain the facts. The complaint merely states that the petitioner had not executed any agreement with any truck union for hiring the trucks. The petitioner, however, contends that he owned the trucks and there was no question, therefore, of hiring the trucks from the truck union. The official respondents have not produced any document recording what transpired at the time of opening of the tender on 23.03.2016. They merely rely upon Annexure R-4, which they state are the minutes of the meeting of a Committee held on 28.03.2016. The minutes note the complaint by respondent No. 5. The minutes state that the petitioner was asked to present the copies of the registration certificates of the trucks “on the spot” but the

petitioner had expressed his inability to do so. The petitioner, however, contends that this is false and that the communication to this effect had never been addressed by the official respondents to him. The minutes also record that the tender committee had granted the petitioner's request to produce the documentation by 28.03.2016. The petitioner states that even this is false.

Although it is difficult in this writ petition to resolve this disputed question of fact, we may have considered probing the matter further but for the fact that the period of the work is due to expire in any event by 21.03.2017. However, considering the record that is presented before us, we are not inclined to dismiss the writ petition without certain clarifications.

The petitioner alleges that the entire exercise was only to benefit respondent No. 5 illegally. The petitioner would be at liberty to adopt appropriate proceedings against the respondents for any loss that he may have incurred on account of the alleged illegality. The disposal of this writ petition by this Court will not affect the petitioner's case on merits.

The petitioner has also filed a contempt petition for violating the interim order dated 12.04.2016 passed in this petition. By that order, the respondents were restrained from issuing the work order in favour of any party, if that had not already been issued. According to the petitioner, respondent No. 5 had been awarded the work in breach of the said order. The contempt petition also would be decided on its own merits.

Mr. Goel, learned counsel appearing on behalf of the petitioner

states that respondent No. 5 has been awarded the work with an amount of 498% above schedule of rates (ASOR), whereas the petitioner had quoted only 114% ASOR.

Mr. Garg, learned counsel appearing for respondent No. 5 further states that it was awarded the work at 61% ASOR. These are the issues, which would be decided in appropriate proceedings.

The petition is, therefore, disposed of with the above clarifications.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(ANUPINDER SINGH GREWAL)
JUDGE

22.02.2017
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Whether speaking/reasoned?	Yes/No
Whether reportable?	Yes/No