

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 6979 of 2016
Date of Decision : 06.04.2017

Arti Aggarwal

...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. Gagandeep Singh Sirphikhi, Advocate
 the for the petitioner.

Mr. Rupinder Khosla, Senior Advocate with
Ms. Ishrat Phulka, Advocate for respondents No. 3 to 5.

Mr. Alok Jain, Additional Advocate General, Haryana.

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

The petitioner has challenged the fresh tender process initiated by the official respondents i.e. respondent No. 1 to 5. Respondent No. 6 is the private respondent.

2. Pursuant to an earlier tender process the petitioner's bid of Rs. 49.50 lacs was the highest and the petitioner was allotted shop no. 10 in July, 2015.

3. The petitioner's grievance is that despite the same merely on a complaint by respondent No. 6 and a few others the official respondents initiated a fresh tender process. Certain other bidders challenged this decision in respect of other premises, which were also auctioned by the

same process by filing CWP No. 22805 of 2015. That writ petition was disposed of by an order and judgment dated 28.10.2015 of a Division Bench to which one of us (S.J. Vazifdar, C.J.) was a party. Paragraph 3 of the judgment reads as under :-

- “3. The writ petition is, therefore, disposed of by the following order:-*
- (i) Respondents No. 2 to 5 are at liberty to collect the bids.*
 - (ii) The petitioners are at liberty to submit bids entirely without prejudice to their rights and contentions raised in the earlier writ petition as well as in this writ petition and in the matter generally, inter alia, to the effect that they are entitled to have their earlier bid accepted and that the fresh notice inviting tenders is bad in law.*
 - (iii) Till the decision of the Principal Secretary and in the event of the same being adverse to the petitioners for a period of two weeks after the service of the order upon the petitioners, the bids pursuant to the fresh notice inviting bids shall not be opened and/or confirmed. The Principal Secretary, however, shall decide the matter independently and without being influenced by this order or the procedure set out herein.*
 - (iv) If the Principal Secretary desires to see the fresh bids, it will be open to respondent No. 1/Secretary, Department of Housing & Urban Development, Punjab to make an application to the Court for the same in this writ petition itself which shall be decided on its own merits.”*

4. Pursuant to paragraph 3(iv), an application was made for opening the bids, which was allowed by an order dated 25.01.2016. The order dated 25.01.2016 insofar as it is relevant, reads as under:-

“The petitioners have no objection to the respondents

opening the bids. The respondents shall do so. The respondents shall also take a decision in the matter viz whether or not to proceed with the earlier auction process or the fresh bids received pursuant to the tender or otherwise. The decision shall be taken by 03.02.2016.”

5. The official respondents probably under the bona fide misapprehension sought to award the shop in favour of respondent No. 6, whose bid of ₹55 lacs was the highest. By an interim order in this petition dated 12.04.2016, the impugned order dated 31.03.2016 allotting the shop to respondent No. 6 was stayed. By an interim order dated 07.02.2017, we recorded Mr. Khosla's statement that the Principal Secretary would take a decision as per the previous orders of this Court by the next date of hearing. The previous order was obviously a reference to the said order and judgment dated 28.10.2015, the operative part whereof was quoted earlier. The Additional Chief Secretary Housing and Urban Development accordingly passed an undated order, Annexure A-2 to the affidavit of one Surender Singh, Estate Officer ADA, Amritsar. The order refers to a report of the Committee which examined the relevant documents and the entire record relating to the auction and the video recording and submitted its report dated 28.02.2017. The report concluded that the entire auction process dated 15.07.2015 (Wrongly mentioned as 15.07.2017), was fair and that the procedure was followed by the official concerned while conducting the auction and that there was no irregularity in the same. The Additional Chief Secretary endorsed the findings.

6. The initial process, therefore, was fair and in accordance with law. There was no warrant for interfering only on the basis of a complaint

of respondent No. 6, which has now been found to be unsubstantiated. It must be noticed that the difference is only ₹5.5 lacs. The petitioner's bid in July, 2015 was ₹49.50 lacs, whereas the fresh bid submitted by respondent No. 6 almost six months later on 28.01.2016 was ₹55 lacs. This difference of 10% does not persuade us to strike down the initial auction process. If merely on account of a slightly higher price being offered, the auctions are set-aside, the sanctity of auction/tender process would be lost. It must also be noted that the son of respondent No. 6 submitted a bid in the earlier round in respect of the adjoining premises. The petitioner's inclination to pay a higher price, therefore, is obvious. What is equally, if not more important to note is that the son of respondent No. 6 became the owner of the adjoining premises pursuant to the earlier tender process. In other words, respondent No. 6 offered the highest amount only after becoming the owner of the adjoining premises. It cannot, therefore, be stated that the price at which the shop was allotted to the petitioner pursuant to the earlier tender process was unrealistic.

7. It appears that respondent No. 6 made the allegations only with a view to acquire the adjoining premises and that too after knowing that he was allotted the adjoining premises. This has put everyone especially the petitioner and even the official respondents to unnecessary hardship and expenses. On the last few occasions respondent No. 6 has not even appeared.

8. The writ petition is, therefore, allowed. The subsequent tender process is quashed and set-aside. The allotment to the petitioner pursuant to

the earlier tender process in July, 2015 is confirmed. Respondent No. 6 shall pay the costs fixed at ₹10,000/- to the High Court Lawyers' Welfare Fund, Chandigarh.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(ANUPINDER SINGH GREWAL)
JUDGE

06.04.2017
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<i>Whether speaking/reasoned?</i>	<i>Yes/No</i>
<i>Whether reportable?</i>	<i>Yes/No</i>