

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-28815-2017

Date of Decision: 18.12.2017

M/s M.S. Builders, Mohali

....Petitioner.

Versus

Union Territory, Chandigarh and others

...Respondents.

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

PRESENT: Mr. R.K. Girdhar, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the letter dated 11.12.2017 (Annexure P-10) (wrongly mentioned as dated 11.11.2017) vide which its bid has been declared non-responsive being not found eligible. Further, a writ of mandamus has been sought directing respondents No.2 to 4 to consider the bid of the petitioner.

2. Respondent No.4 vide Notice Inviting Tender dated 20.10.2017 (Annexure P-1) invited the bids for the work of construction of Block-A in Government Rehabilitation Institute for Intellectual Disabilities (Grid Ashadeep), Sector 31, Chandigarh. The last date for submission of bid was 7.11.2017 and the same was to be opened on the same day, i.e. 7.11.2017.

The petitioner was carrying on the works in the name of firm M/s Aggarwal

Construction Company having 90% share during the financial year 2008-09 to 2016-17 as is clear from the partnership deed dated 1.4.2008 (Annexure P-2). The said firm was dissolved on 1.4.2017 and the petitioner formed the firm in the name of M/s M.S. Builders. In response to the tender notice, the petitioner along with three others submitted its bid. Along with the bid, the petitioner also uploaded all the requisite documents including the enlistment certificates dated 29.9.2016 and 18.8.2017 (Annexure P-3). As per the certificates (Annexures P-4 to P-7, respectively), the petitioner has executed the requisite works w.e.f. 2009 to 2016 in the name of previous firm, namely, M/s Aggarwal Construction Company. Respondent No.4 sent a letter dated 16.11.2017 (Annexure P-8) to the petitioner that it had not uploaded the similar works executed in the name of bidding agency for the last seven years and even the financial turnover for the last three years had not been found uploaded and directed the petitioner to supply the requisite documents within a period of seven days from the date of issuance of the said letter. The petitioner filed a detailed reply dated 20.11.2017 (Annexure P-9) to the letter, Annexure P-8 before respondent No.4, but no response has been received till date. However, respondent No.4 vide letter dated 11.12.2017 (Annexure P-10) (date wrongly mentioned as 11.11.2017) approved the financial bids of respondent No.5 and M/s Naresh Kumar Tulli. On the very next day, i.e. 12.12.2017, respondent No.4 opened the financial bid of respondent No.5. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has submitted a reply dated 20.11.2017 (Annexure P-9) to respondent No.4, but no action has so far been taken thereon.

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 directing respondent No.2 to take a decision on the reply dated 20.11.2017 (Annexure P-9), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner and respondent No.5 within a period of two weeks' from the date of receipt of the certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

December 18, 2017
gbs

(AMIT RAWAL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No