

Sr.No.222

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP-COM No. 41 of 2016
Date of decision:26.04.2017**

M/s Sai Transport Company

.....Petitioner

versus

Food Corporation of India and another

.....Respondents

Coram: Hon'ble Mr.Justice Rakesh Kumar Jain

Present: Mr. Anurag Chopra, Advocate
for the petitioner.

Mr. J.S.Puri, Advocate
for respondent No. 1.

Ms. Harpreet Kaur, Advocate for
Mr. K.K.Goel, Advocate
for respondent No. 2.

Rakesh Kumar Jain, J.(Oral)

This petition is filed for declaring the inaction on the part of respondent No. 1 for not disqualifying the bid submitted by respondent No. 2, in response to the e-tender dated 11.08.2016(Annexure P-1) as illegal.

In short, the Food Corporation of India(respondent No.1) initiated tender inquiry and invited bids from the qualified and competent parties for their appointment as contractors for loading and unloading/handling of transport of foodgrains to the depots of adjoining areas from the Centres of Haryana region, vide e-tender notice/advertisement dated 11.08.2016.

According to the petitioner, the bid submitted by the bidders are governed by the instructions issued to tenderers by the Food Corporation of India which were to be complied with in letter and spirit. Pursuant to the e-tender notice dated 11.8.2016, the petitioner had submitted

its technical bid to respondent No. 1. According to the petitioner, respondent No. 2 did not submit bid for all the 19 destinations falling under the point of origin i.e. from Barwala to the places of destination in the State of Rajasthan for which the petitioner had submitted the price bid. Since the grievance of the petitioner was not being redressed by respondent No.1, therefore, it preferred a writ petition bearing CWP No. 24601 of 2016 titled as M/s Sai Transport v. Food Corporation of India before this Court which was disposed of with a direction to respondent No. 1 to decide the representation of the petitioner.

Thereafter, in pursuance of the order passed by this Court, respondent No. 1 passed the impugned order on 15.12.2016(Annexure P/4).

Counsel for the petitioner has submitted that as per the terms and conditions of the NIT, the tender was required to be accompanied by all the scheduled annexures, the bidder was to ensure that rate quoted in the price bid is written in figures as well as in words at the right place, the tenderers to ensure that they should fill in all the relevant columns and indicate their choices by ticking/striking the relevant points as indicated in the NIT and the tenderer had to quote rates for each centre separately in the Price Bid. Format for the price bid was also made available in the work item document.

Counsel for the petitioner has further submitted that the petitioner had given the price for the appointment as Road Transport Contractor from Barwala to Rajasthan and mentioned the rates of 18 centres/destinations in the State of Rajasthan quoting the rates per kilometre. He also referred to the price bid submitted by respondent No. 2

who has allegedly also submitted the price bid from Barwala to Rajasthan pertaining to 4 stations namely Banswara, Sawai Madhopur, Sikar and Jhunjhunu. The grievance of the petitioner is that another bidder has given the rates from the destination of Hisar to Rajasthan for two destinations namely, Sadulpur and Fatehpur Shekhawati on the same price bid starting from serial No. 18. It is submitted that the petitioner has been considered L-II in so far as the rates quoted from Barwala to Banswara is concerned in which respondent No. 2 has quoted the rate as 1.550 whereas the petitioner has quoted the rate for the same destination as 1.551 in which there is hardly any difference.

After notice, respondents have filed their reply. Learned counsel for respondent No. 1 has pointed out that though same bidders, running two enterprises has quoted the rates for from Barwala to some destinations in Rajasthan and Hisar to some destinations in Rajasthan in the same price bid but the price bid of other enterprise of respondent No. 2 i.e. M/s Middha Logistics Services quoted for destination from Hisar to Sadulpur and Fatehpur Shekhawat has not been considered at all and only the bid submitted by respondent No. 2 for destination from Barwala to Banswara has been considered as the petitioner has been found L-I in all other destinations and respondent No. 2 was L-I for this destination.

I have heard learned counsel for the parties and after examining the available record with their able assistance, am of the considered opinion that there is no merit in the present petition because respondent No. 1 has not given any advantage to other enterprise of respondent No. 2 who had mentioned the rates of another region i.e. Hisar to the places of destination in Rajasthan and has considered only the price bid submitted by respondent

No. 2 from the place of origin Barwala to one place of destination in Rajasthan, namely, Banswara.

In view thereof, I do not find any merit in this petition and hence, the same is hereby dismissed.

26th April, 2017

Shivani Kaushik

**[Rakesh Kumar Jain]
Judge**

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No