

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

**CWP-COM No.47 of 2017
Date of Decision:27.03.2017**

Gulshan Kumar	Petitioner
Vs.	
State of Haryana and others	Respondents

CORAM:- HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present:- Mr. Bhupinder Ghai, Advocate for the petitioner.
Ms. Tanisha Peshawaria, DAG, Haryana for respondents
No.1 to 4.
Mr. Anurag Chopra, Advocate for respondents No.5, 8
and 10.
Mr. R.S. Budhwar, Advocate for respondent No.6.
Mr. Vishal Aggarwal, Advocate for respondent No.7.

RAKESH KUMAR JAIN, J.(Oral)

The petitioner has prayed for issuance of a writ in the nature of certiorari for quashing of the order dated 19.1.2017 by which respondents No.3 and 4 have selected respondents No.5 to 10 as Transport Contractors for District Ambala and Panchkula for the year 2017-18.

It is submitted that clause “X” of the terms and conditions of the Transportation Tender for the year 2016-17 was modified by letter dated 23.1.2017 as per which the petitioner is now eligible to participate in the tender process but except for the Centres at Kaithal, Yamuna Nagar and Kurukshetra, the Centres at Ambala and Panchkula have not followed the directions issued by the Director Food and Supplies, Haryana.

It is submitted that had these instructions been followed by the Centres at Panchkula and Ambala, the petitioner would have participated in the tender and would have given half the rates of the rates offered by the private respondents.

Counsel for the respondents have submitted that firstly the petitioner has not participated in the tender process on 18.1.2017 and secondly the letter dated 23.1.2017 is not applicable because the said modification has been made prospective.

Counsel for the petitioner submits that the letter dated 23.1.2017 would have also applied to the petitioner, had the Centres at Ambala and Panchkula followed the directions issued by the Director Food and Supplies as has been followed by the Kaithal Centre.

I have heard learned counsel for the parties and after examining the record, it transpires that firstly the tender was floated on 9.1.2017 and the date fixed for the Centre at Ambala was 18.1.2017. At that time, the petitioner was not eligible in view of Clause 'X' of the terms and conditions. Therefore, the petitioner did not apply. However, the Clause 'X' of the terms and conditions was relaxed vide letter dated 23.1.2017 but it was specifically mentioned therein that the said modification will be effective from the prospective date. Thus, the letter dated 23.1.2017 would apply from 23.1.2017 onwards and not to the tender which has already been floated on the earlier date, i.e. 18.1.2017. Insofar as the Centre at Kaithal is concerned, it was in their discretion to have changed the date from 18.1.2017 to 24.1.2017 but it cannot be applied to the Centre at Ambala and Panchkula.

Dismissed.

March 27, 2017
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(RAKESH KUMAR JAIN)
JUDGE

Whether Speaking/reasoned	Yes/No
Whether Reportable	Yes/No