

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

**CWP-10328-2018 (O&M)
Date of Decision: September 11, 2018**

Jagga Singh

...Petitioner

Versus

State of Punjab and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI,
CHIEF JUSTICE.**

HON'BLE MR. JUSTICE ARUN PALLI, JUDGE.

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

Mr. Avinit Avasthi, AAG, Punjab.

**Mr. Gaurav Rana, Advocate,
for respondent No. 3.**

KRISHNA MURARI, C.J. (ORAL)

The petitioner has approached this Court seeking a mandamus to command respondent Nos. 1 and 2 to open and accept the technical bid submitted by him for being given the contract of Labour and Cartage Contractor for 5 PEG Godowns, District Bathinda, namely, Garg Godowns, Jagrat Singh Tara Singh, Balaji Complex, Ek Om Enterprises, and Ramandeep Singh Sidhu, all situated at Rampura Phul.

The main grievance of the petitioner is that his technical bid has not been opened at all. However, in the reply filed by the State it is

submitted that the technical bid submitted by the petitioner was rejected by the Tender Allotment Committee. Though Annexure R-9 filed along with the reply only records regarding rejection of the technical bid with a further statement that 'proceeding attached', but the said proceedings have not been brought on record by the respondents before us. Though in paragraph No. 4 of the reply it has been stated that it is wrong to say that the technical bid of the petitioner was not opened and considered. The technical bid of the petitioner was opened and considered on 13.04.2018 and after due consideration it was found that all the documents appended were the same which were appended with the earlier tender process for which the technical bid was opened on 04.04.2018, but the process was subsequently cancelled.

Admittedly, earlier tender, in which the petitioner submitted the bid and claims to have been successful, was cancelled before he could deposit the security money. The stand taken by the official respondents is that said tender was cancelled on account of non-submission of security amount and non-compliance of the terms and conditions of the tender notice. Thus, in effect the rejection of the technical bid of the petitioner for this tender has been attributed to his non-submission of security amount in the earlier tender process in which he was successful.

Whatever may have been the reason, at least this much is clear that neither the petitioner was conveyed the reasons for rejection of his technical bid nor any material has been brought before this Court to enable to test the legality and genuineness of the same.

However, learned counsel appearing for the State submits that since there is a provision of appeal under Clause 16 of the Policy for Labour and Cartage of Food Grains for the year 2018-19 (Annexure P-1), the petitioner can prefer an appeal before the competent authority, i.e. the Director Food, Civil Supplies and Consumer Affairs, Punjab, where this issue can adequately be adjudicated upon.

In view of above, we relegate back the petitioner to avail the remedy of appeal. Looking at the fact that the season is to start from 01.10.2018, we give liberty to the petitioner to approach the appellate authority within a period of one week from today alongwith a certified copy of this order, with a direction to the appellate authority to decide the appeal after notice and opportunity to all the stake-holders, within a period of 15 days from the date of receipt of the appeal.

Since we are not entering into the question as to whether the cancellation of the tender process was on account of failure of the petitioner to deposit the security amount or he did not deposit the security amount because the tender process was cancelled and also whether non-submission of the security amount in the earlier tender process can constitute a good ground to reject the technical bid offer in a subsequent tender, all these issues are left open to be addressed by the parties and adjudicated by the appellate authority.

With the aforesaid observations and directions, the writ petition stands finally disposed of.

CM-8139-CWP-2018 &
CM-8145-CWP-2018:

Since vide order of an even date, the main case stands finally disposed of, no formal orders are required to be passed in these applications.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

September 11, 2018
Pkapoor

Whether Speaking/Reasoned: YES / ~~NO~~
Whether Reportable: ~~YES~~ / NO