

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

Civil Writ Petition No. 12721 of 2017

Date of Decision: 22.01.2018

Gurdial Singh

.....Petitioner

versus

Food Corporation of India and others

.....Respondents

**CORAM: HON'BLE MR.JUSTICE S.J.VAZIFDAR, CHIEF JUSTICE
HON'BLE MR. JUSTICE AVNEESH JHINGAN**

Present:- Mr.Vikas Singh, Advocate
for the petitioner.

Mr.K.K.Gupta, Advocate
for respondents No.1 and 2.

Mr. Nitin Kaushal, Advocate
for respondent No.3.

S.J.VAZIFDAR, CHIEF JUSTICE (ORAL)

The petitioner has challenged the rejection of his tender on the ground that he is not eligible.

The respondent rejected the tender on account of the petitioner not having complied with Clause 11 of part C of the notice inviting tenders which enumerates the documents to be uploaded with the technical and financial bids. Clause 11 of Part C reads as under :-

“11. Affidavit regarding EPF defaults in relation to work carried out for FCI as per the format given in the NIT. (Bidders/firm applying under clause 3(iii) due to insufficient experience, though the bidder/firm or any of the partners of the firm has earlier worked for FCI, also needs to submit this affidavit). There are three different formats provided in the NIT for bidders lying in various categories as follows :
(A) 'Format A' is for the bidders (as partners or

in individual capacity) against whom EPF proceedings are pending at the time of submission of tenders.

(B) 'Format B' is for the bidders (as partners or in individual capacity) against whom no EPF proceedings are pending at the time of submission of tenders.

(C) 'Format C' is for a bidder/firm or any of the partner of the firm who has not worked for FCI in the past.

The affidavit in the format as applicable to a particular bidder may be uploaded on line at the relevant place.

The petitioner filled in the affidavit in Format 'B' which relates to bidders against whom no EPF proceedings have been pending. The petitioner actually ought to have filled up Format 'A' which pertains to bidders against whom EPF proceedings are pending at the time of submissions of tenders. This would relate to bidders in their individual capacity or as partners. The petitioner was part of the Truck Operative Union, Badni Kalan, District Moga, Punjab. It is fairly stated that the union is not a separate legal entity. From what we have been able to understand the union is only a group of persons carrying on the transport business together. They would constitute a partnership and it is an unregistered. The petitioner's contentions in his e-mail dated 21.02.2017 that he has no interest in the said union and that he is only the authorized signatory of the union appears to be incorrect. In their affidavit which has been produced by respondent No.1 along with its affidavit in the reply, the petitioner has declared that he submitted a tender in the name of the said union. Along with the said affidavit, he has produced documents of title of his own property and offered them as security. An authorized signatory would normally not do so. It is not contented that there were any special circumstances on account of which the petitioner did so. Moreover,

paragraph 2 of the affidavit reads as under :-

“That I have submitted the said tender in the capacity of sole Proprietor/partnership/Managing Director/Director of the Private Public Limited Company/as the President/Secretary of the society. The attested true copy of the partnership deed memorandum of association and articles of Associations constitution of the society is/are enclosed herewith.”

The petitioner had not clarified in which category he falls namely sole Proprietor, partnership, Managing Director, Director etc. Further, the proceedings have been initiated against respondent No.1 under the Employee Provident Fund Act and Miscellaneous Provisions Act, 1952 *inter alia* on account of the transaction between the said union and respondent No.1 in respect of an earlier transaction.

In the circumstances, the rejection of the petitioner's bid on the ground that it is not eligible is upheld and no interference is called for.

Accordingly, the petition is dismissed.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(AVNEESH JHINGAN)
JUDGE

22.01.2018
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Whether speaking/reasoned	√Yes/No
Whether reportable	√Yes/No