

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

CWP-1134 of 2018 (O&M)

Date of Decision: 22.03.2018

Jagjiwan Pal Singh

..... Petitioner

versus

Food Corporation of India and another

.....Respondents

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

Present:- Mr. D.S.Patwalia, Sr. Advocate with
Mr. Kanan Malik, Advocate for the petitioner.

Mr. Sumeet Goel, Advocate for respondent No.1.

Mr. Aashish Aggarwal, Sr. Advocate with
Mr. Bhupinder Ghai, Advocate for respondent No.2.

S.J.VAZIFDAR, CHIEF JUSTICE (oral)

The petitioner has challenged rejection of his tender on the ground that the technical bid was not in order.

2. It is sufficient to consider only one ground on the basis of which technical bid was rejected.

Clause 12 of the notice inviting tender reads as under :-

“ 12. Scanned copy (in pdf format) of EPF code Number and Proof of deposit of EPF for the relevant experience period, (if experience is HTC of Handling contract) i.e.

1. NDC from RPFC

Or

2. Confirmation from EPF authorities and confirmation from principle employer.

Or

3. Inspection Report and confirmation from Principle Employer

Or

4. Confirmation of Principal Employer if the EPF was deducted and submitted by the Principal Employer itself in its own code.

for the experience period is/are also required to be attached with the tender. (In case any of any shortcomings in submission of the same, the bid will be summarily rejected)”

3. The petitioner claims to be eligible on the basis that he fulfill Clause 12(1) and Clause 12(2). The petitioner has admittedly not furnished a No Dues Certificate (NDC) from the RPFC (Regional Provident Fund Commissioner). Nor has he produced a confirmation from the EPF (Employees' Provident Fund) authority.

4. The petitioner relies upon an order dated 20.11.2017 passed by the Assistant Provident Fund Commissioner, under Section 14B of the Employee Provident Fund and Miscellaneous Provisions Act, 1952, in respect of the petitioner for the period 05/2011 to 06/2017. This period covered the relevant period for the purpose of the petitioner's bid. The order records that the petitioner had failed to pay the amounts under the Act on account of which a notice was issued. The order indeed notes that though the petitioner paid certain amounts late, he had paid the amount in question by 26.10.2017 and therefore, the proceedings under Sections 14-B and 7 of the Act for the period 05/2011 to 06/2017 were dropped.

5. The order itself does not meet the requirements of clause 12 of the NIT. The order may not have attained finality. The Ist respondent requires a confirmation from the authorities themselves in the form of a No Dues Certificate. The order at the highest only indicates that the proceedings

in respect of which the notices were issued need not be proceeded with further as the demand proceedings in respect thereof had been dropped. The order may not have attained finality on account of a challenge thereto. The claim of finality is not relevant. What is relevant is that the furnishing of such an order does not meet the requirement of clause 12.

6. In view thereof, there is not necessary to consider the other contentions raised by the respondents.
7. The petition is accordingly dismissed.

(S.J. VAZIFDAR)

CHIEF JUSTICE

(AVNEESH JHINGAN)

JUDGE

22.03.2018

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