

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-12005-2018

Date of Decision: 11.5.2018

M/s Balaji Transport Company, Julana, Jind

....Petitioner.

Versus

Food Corporation of India and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL,
ACTING CHIEF JUSTICE.**

HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

PRESENT: Mr. Aashish Chopra, Advocate and
Ms. Rupa Pathania, Advocate for the petitioner.

AJAY KUMAR MITTAL, ACJ.

1. In this writ petition filed under Article 226 of the Constitution of India, the petitioner has prayed for issuance of a writ of in the nature of certiorari for quashing the decision technically disqualifying the petitioner as per the Technical Bid Opening Summary, uploaded on the website of the Central Public Procurement Portal on 6.4.2018 (Annexure P-3). Further, a writ of mandamus has been sought directing the official respondents to consider the technical bid of the petitioner.

2. Food Corporation of India (FCI) had issued Notice Inviting Tender (NIT) dated 27.11.2017 for the appointment of Handling and Transport Contractors and Road Transport Contractors for inviting bids for various centres at different Districts of Haryana including a centre at Julana.

The online tenders were invited under a Two Bid System at Central Public Procurement Portal for appointment of contractor for loading/unloading/handling and transport of foodgrains and allied material etc. for a period of two years. In response thereto, the petitioner submitted his bid dated 18.12.2017 (Annexure P-1) along with relevant documents for the appointment as Handling and Transport Contractors at Julana Centre and also deposited 2% of the estimated contract value. As per the Technical Bid Opening Summary uploaded on the e-procure website on 19.12.2017 (Annexure P-2), six bidders had submitted their respective bids for the Julana Centre. The official respondents had uploaded the Technical Bid Evaluation Report dated 6.4.2018 (Annexure P-4) on the official website showing the petitioner as technically disqualified on the ground that the petitioner had failed to upload undertaking for NIT. The petitioner had also brought to the notice of the official respondents the order dated 28.2.2018 (Annexure P-4) passed in CWP-3415-2018, wherein this Court had interpreted the same tender documents to hold that the NIT does not stipulate the manner in which the undertaking was to be filled in. Further, the official respondents had opened the financial bids of the technically qualified bidders as is clear from the documents, i.e. rates received in Price Bids and Tender Summary Reports dated 7.5.2018 (Annexures P-5 and P-6, respectively) uploaded on the official website. Hence, the present writ petition.

3. Learned counsel for the petitioner has prayed that liberty be granted to the petitioner to file a detailed and comprehensive representation before the appropriate authority by incorporating the grievance as raised in the present writ petition and direction be issued to the authority concerned

to decide the representation expeditiously in a time bound manner in accordance with law.

4. After hearing learned counsel for the petitioner, perusing the present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by granting liberty to the petitioner to file a detailed and comprehensive representation raising all the pleas as raised in the present writ petition before respondent No.2. It is directed that in the event of a representation being filed by the petitioner within a period of three days from the date of receipt of the certified copy of the order, the same shall be decided by respondent No.2 in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner and respondent No.4 within a period of seven days from the date of receipt of the representation.

**(AJAY KUMAR MITTAL)
ACTING CHIEF JUSTICE**

May 11, 2018
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**(TEJINDER SINGH DHINDSA)
JUDGE**

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No