

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

**CWP-14094-2018 (O&M)
Date of Decision: 30.05.2018**

M/s Kailash Parbat Infrastructure Pvt. Ltd.

... Petitioner

Versus

HSIIDC

... Respondent

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

HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Sharad Choudhary, Advocate for the petitioner.

...

TEJINDER SINGH DHINDSA, J.

The Haryana State Industrial and Infrastructure Development Corporation Limited (HSIIDC) issued tender notice dated 26.01.2018 (Annexure P-1) inviting bids for supply and use of explosives and related items for its Mining Project at Village Khanak, Tehsil Tosham, District Bhiwani, Haryana.

2. Instant petition has been filed assailing the order dated 12.03.2018 (Annexure P-10), whereby the bid submitted by the petitioner in response to tender notice dated 26.01.2018 has been rejected.

3. Perusal of the impugned order would reveal that the bid submitted by the petitioner has been rejected on the following basis:

“2. M/s Kailash Parbat Infrastructure Pvt. Ltd.: The Bidder have submitted documents of 2 explosives magazine licenses which are located in village Nangal Chaudhary, District Mahendergarh at a distance of more than 150 kms from the

Mines site. Indian Explosives Rules, 2008 requires that entire process is required to be completed between the period of sunrise to sunset. Considering the distance of the magazine from mines, it is not possible to complete the operations within the stipulated time period. Considering the above requirements, the Explosive Department (PESO) do not allow magazines which are located more than 150 kms away from the blast site to use explosives at such place.”

4. Learned counsel has raised a solitary submission to the effect that the magazine of the petitioner is not situated in Village Nangal Chaudhary and rather it falls under Village Ganwari Jat. Further contended that the magazine site of the petitioner i.e. Ganwari Jat falls within 150 kms of the site where the explosives are to be transported and as such, it is argued that rejection of the bid is illegal as it does not violate the conditions laid down by the Indian Explosives Rules, 2008.

5. Having heard learned counsel for the petitioner at length and having perused the case paper book, we are of the considered view that no intervention in the matter is warranted.

6. The sole basis for rejection of the bid of the petitioner is that the documents submitted of the two explosives magazine licenses were located in Village Nangal Chaudhary, District Mahendergarh and which is at a distance of more than 150 kms from the Mines site for which the tender notice had been invited. Case set up on behalf of the petitioner is that the magazine site of the petitioner is at Ganwari Jat which falls within a distance of 150 kms.

7. We find that the present petition raises disputed questions of fact. This is an issue which cannot be gone into by this Court in exercise of

its extraordinary writ jurisdiction under Article 226 of the Constitution of India. Questions of fact would necessarily entail leading of evidence and for a finding to be recorded upon due appreciation thereof.

8. For the reasons recorded above and while declining to interfere in the present writ petition, liberty is granted to the petitioner to avail of any other alternative civil remedy as may be available in accordance with law.

9. Petition dismissed.

(AJAY KUMAR MITTAL)
ACTING CHIEF JUSTICE

(TEJINDER SINGH DHINDSA)
JUDGE

30.05.2018

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| i) | Whether speaking/reasoned? | Yes/No |
| ii) | Whether reportable? | Yes/No |