

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-15069-2018

Date of Decision: 1.6.2018

M/s Varinder Kumar Contractor

....Petitioner.

Versus

State of Punjab and others

...Respondents.

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

HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

PRESENT: Mr. Rajesh Kumar Girdhar, Advocate for the petitioner.

AJAY KUMAR MITTAL, ACJ.

1. In this writ petition filed under Articles 226/227 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of mandamus directing respondents No.2 and 4 to disqualify respondent No.5 who had concealed the material information with regard to its ongoing works. Further, a direction has been sought to respondents No.2 to 4 to recall the tender as the entire tender process stands vitiated on account of misleading and false representation made by respondent No.5.

2. Respondent No.4 vide E-Tender Notice dated 9.5.2018 (Annexure P-1) invited bids for the work of 'Special Repair of Link Roads Program 2018-19' in the jurisdiction of MC Barnala, Dhanaula and Tapa. Along with the NIT, respondent No.4 had also issued instructions

disclose his ongoing works to be completed during the period of completion of instant works for the purpose of calculating bid capacity. However, respondent No.5 had concealed this material information while uploading the bid as is clear from the summary sheet (Annexure P-3). Apart from respondent No.5, the petitioner and five others submitted bids for the said works. The technical bids were evaluated on 24.5.2018 and an objection was raised by the petitioner before the Technical Evaluation Committee in spite of that the technical bid of respondent No.5 was declared responsive. Accordingly, the petitioner moved a representation dated 24.5.2018 (Annexure P-4) to respondent No.2 with copy to respondent No. 3 for rejecting the bid of respondent No.5, but no response has been received till date. On the same day, i.e. 24.5.2018, respondent No.4 opened the financial bid in favour of respondent No.5. On 28.5.2018, respondent No.4 sought information from the concerned Executive Engineers where the works of respondent No.5 and other agencies were in progress. The concerned Executive Engineers vide their letters dated 29.5.2018 (Annexures P-5 and P-6, respectively) furnished their information which showed that respondent No.5 was executing five works. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has moved a representation dated 24.5.2018 (Annexure P-4) to respondent No.2 with a copy to respondent No.3, but no action has so far been taken thereon.

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 directing respondent No.2 to take a decision on the representation dated 24.5.2018 (Annexure P-4), in

accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner and respondent No.5 within a period of 7 days from the date of receipt of the certified copy of the order.

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

June 1, 2018
gbs

**(TEJINDER SINGH DHINDSA)
JUDGE**

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No