

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 18722 of 2017 (O&M)
Date of Decision: 27.04.2018

Deepak Kumar

.....Petitioner

versus

State of Punjab and others

.....Respondents

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

Present: Mr. K.K.Goel, Advocate, for the petitioner.
Mr. Avinit Avasthi, Assistant Advocate General, Punjab
for respondent Nos.1 to 4.
Ms. Deepali Puri, Advocate, for respondent No.5.
Ms. Harpreet Kaur, Advocate, for respondent No.6.

S.J.VAZIFDAR, CHIEF JUSTICE

The petitioner has challenged an order dated 12.04.2017 black-listing him on the ground that he had allegedly failed to execute the labour cartage contract awarded in his favour and forfeiting the security/surety deposited by the petitioner. The petitioner has also challenged the award of the work in favour of respondent No.6 i.e. the private respondent at the risk and costs of the petitioner.

2. Mr. Goel, the learned counsel appearing on behalf of the petitioner contended that the impugned order could not have been passed as the petitioner had in fact not been awarded a contract by the respondents.

3. The respondents had issued a Notice Inviting Tender on 19.03.2017 for loading and unloading of food grains at storage centre, labour-cartage and labour contract for PEG Godowns. The petitioner admittedly submitted a bid. The bids were opened on 31.03.2018.

4. Mr. Goel stated that the petitioner was informed orally that his bid was the most competitive. However, as noted earlier, Mr. Goel contends that no contract was ever awarded in favour of the petitioner. He, therefore, submits that the show cause notice dated 11.04.2017 is itself void. The notice alleges that the procuring agencies had started purchasing the wheat but that the petitioner had not started the work for lifting the same from the grain market; that messages were sent even earlier requesting the petitioner for providing labour and to start the work of cartage and that the petitioner, however, failed to do so. The petitioner was, therefore, informed that if the work of lifting the wheat at the Nabha Grain Market was not performed by 10.00 A.M. on 12.04.2017, the District Tender Committee as per the clauses of the Labour Cartage Policy would forfeit the earnest money and black list the petitioner. Accordingly Mr. Goel further contends that the said impugned order is also void.

5. The contention that the impugned order is void on the ground that no contract was issued in favour of the petitioner is inconsistent with the averments in the petition. Paragraphs-3 and 4 of the petition read as under:-

“3. That in pursuant to the advertisement/re-advertisement the petitioner submitted his tender for allotment of labour cartage contract of food agency i.e. Warehouse, Nabha, District Patiala. The petitioner was allotted the work and the contract was given for one year commencing from 01.04.2017 to 31.03.2018. It is pertinent to mention here that the rates quoted by the petitioner were

35% above ASOR but after negotiation it was reduced to 22% ASOR. Due to being L1, the petitioner was awarded the aforesaid work of labour and labour cartage.

4. That the petitioner after awarding of the contract started executing the work and lifted gunny bags on 09.04.2017 from Godown Nabha to Grain Market Nabha.”

6. Mr. Goel, however, submitted that as a matter of fact no contract was ever issued in favour of the petitioner. However, in view of the pleadings we are unable to grant any relief on the basis that an agreement was never entered into between the parties. The petitioner is always at liberty to adopt any other appropriate proceedings including arbitration in accordance with law.

7. The petition is accordingly disposed of.

(S.J. VAZIFDAR)
CHIEF JUSTICE

27th April, 2018
ravinder

(AVNEESH JHINGAN)
JUDGE

Whether speaking/reasoned
Whether Reportable:

√ Yes/No
Yes/No√