

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No: 3079 of 2018
DATE OF DECISION: 07.03.2018

M/s Jai Durga Transport Company

...Petitioner

versus

Food Corporation of India and others

...Respondents

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

Present: Mr. Aashish Chopra, Advocate with
Ms. Sumiti Arora, Advocate for the petitioner.

Mr. Sumeet Goel, Advocate with
Ms. Varsha Gupta, Advocate, for the respondents.

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S.J. VAZIFDAR, CHIEF JUSTICE:

The petitioner has sought a writ of certiorari to quash a Notice Inviting Tender (NIT) published on 26.01.2018 to the extent that it invites regular bids for appointing Handling and Transport Contractors (HTC) for Hansi centre in Haryana and a writ of mandamus directing the respondents to allow the petitioner to carry out the work in terms of the contract entered into between them.

2. Considering the statements made on behalf of the respondents, it is not necessary to deal with this matter in any detail. Suffice it to note the following facts:-

The first respondent invited e-tenders for appointing Handling and Transport Contracts (HTC) on various routes. The petitioner submitted its bid for Hansi Centre which involves transportation of food grains from various storage points in

Hansi centre to the Hansi Rail Head. The petitioner is aggrieved by the first respondent's decision to invite tender by the impugned tender notice dated 26.01.2018 for the transportation of food grains from four storage points in Hansi centre to Satrod.

3. Mr. Chopra, the learned counsel appearing on behalf of the petitioner states that fresh tenders were invited for Hansi Centre to Satrod in view of the ongoing construction activity of Railway Over Bridge (ROB) at Umra crossing at Hansi, as a result whereof it is not possible to execute the contracts on the terms thereof as on date. The respondents also admit that this is so. Mr. Chopra, however, contends that proposals have been made to the Food Corporation of India that wagons may be got loaded from inside the godowns by breaking the walls after taking permission from the Haryana Ware Housing Corporation and HAFED and if necessary specials may be got loaded after taking assessment of the passage by constituting a committee of officers of Food Corporation of India.

4. It is not necessary to deal with this aspect any further for a statement made on behalf of the respondents that in the event of the proposals being implemented or any other proposals being implemented, which would enable the execution of the contract, the petitioners would be entitled to carry on the work under the contract as per the terms and conditions of the contract itself. The petitioner's grievance, therefore, stands redressed by the statement. To reiterate, in the event of it being possible for the contract to be performed on the terms and conditions thereof due to any changed circumstances during the

contract period, the petitioners would be entitled to perform the contract.

5. The challenge to the tender process for the transportation of goods from Hansi Centre to Satrod is not well founded. The terms and conditions of the Notice Inviting Tender inter-alia do not guarantee the petitioner any particular volume of work and permit the respondents to appoint one or more contractors at any time even during the pendency of the contract. The terms and conditions in any event do not prevent the respondents from appointing contractors for transporting goods from any centre to any rail head. The tender process, therefore, cannot be stopped.

6. There are allegations of *mala-fides* against the respondents' officers. The officers, however, have not been named. Even assuming that they can be correlated on the basis of the designation by which they are described in the title and the statements made in the representations, which are annexed to the petition, it would make no difference. We are unable on the record as it stands, to hold that there are any *mala-fides*. The petitioner must adopt appropriate proceedings for establishing the same and claiming any reliefs in respect thereof.

7. The petition is accordingly disposed of.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(AVNEESH JHINGAN)
JUDGE

07.03.2018
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Whether speaking/reasoned	√ Yes/No
Whether Reportable:	Yes/No√