

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-4757-2018

Date of Decision: 14.5.2018

M/s Bhagwati Trading Company, Ferozepur Cantt.

...Petitioner.

Versus

Punjab Agro Foodgrains Corporation Ltd., Chandigarh and another

...Respondents.

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

HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

PRESENT: Mr. Vipul Sachdeva, Advocate for
Mr. Sandeep Khunger, Advocate for the petitioner.

Mr. Ankit Kumar, Advocate for the respondents.

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 of in the nature of certiorari for quashing the order dated 3.1.2018 (Annexure P-13) vide which respondent No.2 had refused to refund the earnest money deposited by the petitioner. Further, a writ of mandamus has been sought directing the respondents to refund the earnest money deposited by the petitioner in response to e-tender for disposal of damaged wheat.

2. The respondents invited e-tenders from the parties registered with the Food Corporation of India/Food and Supplies Department for disposal of 79377.280 Mts of damaged wheat vide e-tender dated

28.11.2016/7.12.2016. As per the terms and conditions (Annexure P-1), tenderers were required to deposit an amount of ₹ 5000/- (non-refundable) and ₹ 7,63,400/- as earnest money. The tenders were to be opened on 5.12.2016 which was extended upto 7.12.2016 vide notice, Annexure P-2. On the said date, the tenders were opened by the respondents and the offer of the petitioner was highest. However, the tender was to be accepted within a period of thirty days, i.e., 6.1.2017 but the same could not be accepted. The petitioner vide letter dated 6.1.2017 (Annexure P-3) had withdrawn the offer and requested the respondents for refund of the earnest money. The respondents vide letter dated 10.1.2017 (Annexure P-4) sent through e-mail, accepted the offer of the petitioner. The petitioner vide letter dated 7.2.2017 (Annexure P-5) informed the respondents that the offer made by it already stands withdrawn prior to its acceptance by the respondent and requested for refund of the earnest money. In response thereto, the respondents vide letter dated 13.2.2017 (Annexure P-6) informed the petitioner that by extending the period for 10 days for acceptance of the financial bids, the bid was open for 40 days and directed the petitioner to lift the stock. The petitioner vide letter dated 22.3.2017 (Annexure P-7) requested the respondents for refund of the earnest money by informing that the tender was valid upto 4.1.2017 and the offer was withdrawn vide letter dated 6.1.2017. Thereafter, the counsel of the petitioner moved an application dated 28.7.2017 (Annexure P-8) under the Right to Information Act, 2005 regarding the status of the application for refund of the earnest money. In response thereto, the respondents sent a reply along with documents (Annexure P-9), a perusal thereof shows that after obtaining the legal advise from the Legal Adviser, it was proposed by the officials vide

noting dated 16.3.2017 that the earnest money be refunded to the petitioner and wheat may be re-tendered. However, the earnest money was not refunded to the petitioner till date. Thereafter, the petitioner filed CWP-26568-2017 and this Court vide order dated 21.11.2017 (Annexure P-11) disposed of the said writ petition with liberty to the petitioner to file a detailed and comprehensive representation raising all the pleas as raised in the said writ petition before respondent No.2 within one week and respondent No.2 was further directed to decide the same in accordance with law by passing a speaking order and after affording opportunity of hearing to the petitioner within two weeks thereafter. Pursuant to the said order dated 21.11.2017 (Annexure P-10), the petitioner made a representation dated 27.11.2017 (Annexure P-11) to respondent No.2 for refund of the earnest money deposited in response to e-tender for disposal of damaged wheat. Vide letter dated 20.12.2017 (Annexure P-12), the petitioner was directed to attend the office of respondent No.2 on 22.12.2017 at 4.00 PM. In response thereto, the petitioner along with the counsel appeared before respondent No.2 on the said date. However, respondent No.2 vide order dated 3.1.2018 (Annexure P-13) ordered for forfeiture of the earnest money of the petitioner. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has sent a representation dated 27.11.2017 (Annexure P-11) to respondent No.2, but no action has so far been taken thereon.

4. After hearing learned counsel for the parties, 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 27.11.2017 (Annexure P-11), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a period of four weeks from the date of receipt of the certified copy of the order.

(AJAY KUMAR MITTAL)
ACTING CHIEF JUSTICE

May 14, 2018
gbs

(TEJINDER SINGH DHINDSA)
JUDGE

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