

Gurbax Singh
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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 6684 of 2018 (O&M)

Date of decision: May 09, 2018

The Rahul Cooperative Labour and Construction Society Limited

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

**CORAM: HON'BLE MR. JUSTICE AJAY KUMAR MITTAL
ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA**

Present: Mr. Ayush Gupta, Advocate for Mr. Raghav Sharma,
Advocate for the petitioner.

Mr. Deepak Balyan, Addl.A.G.Haryana.

Mr. Virender Mandhan, Advocate for respondent No.4.

Ajay Kumar Mittal, ACJ.

1. The petitioner through the present petition filed under Article 226 of the Constitution of India prays for quashing the work order dated 16.11.2017, Annexure P.10 issued by the official respondents in contravention of the existing policies and ignoring the lowest bid given by it. Direction has also been sought to the official respondents to declare the tender in the name of the petitioner being the lowest bidder.

2. A few facts relevant for the decision of the controversy involved as narrated in the petition may be noticed. The petitioner is a registered society. It is performing the function of labour and construction. Respondent No.3 vide advertisement Annexure P.2 invited tenders for the work of

sweeping and plantation in the Government Industrial Training Institute (Nursing), Karnal. The petitioner applied for outsourcing tender as per the terms of the advertisement. Vide letter dated 6.6.2016, Annexure P.3, the Chief Secretary to the Government of Haryana released clarification that the policy for engaging/outsourcing of services/activities shall be as per the existing formula i.e. wages of fresh entrant regular employee after 1.1.2006 not exceeding ₹8100/- or wages fixed by the Deputy Commissioner, whichever was higher. The wages of contractual employees/outsourced persons were enhanced for unskilled employees from ₹8100/- to ₹9258/-. The Government of Haryana vide letter dated 24.2.2014, Annexure P.4, released guidelines for compliance of the labour laws in the outsourced projects wherein it was stated that since it was practically impossible to release funds to the labour at zero margins, hence those contractors who took the contracts at zero margins should not be given the contracts. The Deputy Commissioner, Karnal in pursuance to the instructions contained in the letter No. 7084-F/41/6057 (Fin-Genl) dated 21.11.1941 revised the daily wages of the workforce of all the categories. The daily wages of unskilled workforce were increased to ₹465/- and ₹12100/- per month. Vide letter dated 8.12.2016, the Government of Haryana released a notification that all the works consisting upto ₹50 lacs were reserved for the co-operative labour and construction societies. Further, more relaxations and reservations were given if the members of the society were ladies or belonged to Scheduled caste. Vide letter dated 22.3.2017, Annexure P.7, the Government of India published in public domain reduction of rate of administrative charges from 0.85% to 0.65% of the pay towards EPF scheme, 1952 and non-levy of administrative charges towards EDLI Scheme 1976 from 1.4.2017. The rate of EPF was also reduced to 13.15%. After considering all the conditions and

the existing policies regarding the outsourcing/contractual employees, the petitioner society submitted the tender. The petitioner gave the lowest bid. According to the petitioner, there were material discrepancies in the tender form submitted by respondent No.4. The rates per work were quoted as ₹9258/- whereas the existing DC rate in District Karnal was ₹12100/- for Chowkidar etc. EPF @ 13.16% was charged by respondent No.4. The petitioner asserts that allotment of work in favour of respondent No.4 is not only against the existing policies but also infringement of its rights. Hence the instant writ petition by the petitioner.

3. We have heard learned counsel for the parties.

4. A short reply has been filed on behalf of respondent Nos. 1 to 3 by Joint Director (Tech.), Department of Skill Development and Industrial Training, Haryana today in court. The same is taken on record. It has been specifically stated therein in Para 5 that the respondent department has taken a decision to cancel the present tender and issue a fresh tender after following all the necessary formalities as per rules/law.

5. Moreover, it is entirely within the domain of the competent authority to take a decision in such matters keeping in view the overall interest of the public. It has been authoritatively held that in tender or contract matters, interference by courts is very limited. Power of judicial review will not be invoked to protect private interest at the cost of public interest or to decide contractual disputes. Interference is permissible if the process adopted or decision made is malafide or intended to favour someone or the same is so arbitrary and irrational that no responsible authority acting under the law could have arrived at it or it affected the public interest. In the present case, decision

has been taken by the respondent authority keeping in view the overall public interest and facts and circumstances of the case.

6. In view of the stand taken by the respondent department with regard to cancelling the present tender and issuing fresh tender, the present writ petition is disposed of as infructuous.

(Ajay Kumar Mittal)
Acting Chief Justice

May 09, 2018
'gs'

(Tejinder Singh Dhindsa)
Judge

Whether speaking/reasoned	Yes
Whether reportable	Yes