

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No. 7413 of 2018 (O&M)
Date of Decision: 28.03.2018

M/s Gupta Construction Company

.....Petitioner

versus

Union of India and others

.....Respondents

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

Present : Mr. Anupam Singla, Advocate, for the petitioner.
Mr. Saurabh Goel, Advocate, for the respondents.

S.J.VAZIFDAR, CHIEF JUSTICE

Reply filed on behalf of the respondents is taken on record.

2. The petitioner has challenged the provisions in the Notice Inviting Tender that only eligible contractors of Civil Road Category of the appropriate class of CPWD would be eligible to participate in the tender process. The petitioner contends that even the contractors enlisted in the composite category ought to be permitted to participate in the tender process.

3. The tenders have been invited for the following works:-

“C/o Culvert over river nallah at Barrier (Frz) hussaniwala, GGI, GG3, SS Wala, NS Wala (5 Nos. box culverts) and Tapu (1 No. Pipe Culvert) along Indo-Pak Border in Ferozepur and Abohar sector of Punjab”.

AND

C/o Culvert over river nallah at Bharopal, Dariya Mansoor, Kakkar Fwd, Kashi Barman, Rania and Singrama Nallah along Indo-Pak Border in Amritsar and Gurdaspur sector in Punjab”

4. The work in both the tenders is the same. The terms and conditions to the above effect are also the same.

5. Absent anything else it is for the parties inviting tenders to decide as to the eligibility of a bidder. It is a party inviting tenders who is the best judge of eligibility. This is especially so in cases which involve technical aspects such as

those relating to engineering and road building contracts. In the present case the matter is more sensitive as it pertains to building culverts in the border area.

6. The petitioner, however, contends that in the previous orders even contractors in the composite category were permitted to submit bids. He further submits that the decision to exclude the contractors in the composite category is irrational.

7. The submission is not well founded. Firstly, it is open to the party inviting tenders to change the terms and conditions including as to the parties eligible to participate in the tender process. These issues are subject to review at any stage. So long as the decision is not mala fide or abundantly unreasonable or irrational, the Court ought not to interfere with the same. Further, in the affidavit in reply it is stated that in the earlier order an exception was made to permit the contractors in a composite category to participate in view of the difficulties faced. The number of eligible bidders was limited. The bids were higher than what the respondents thought was justifiable. The respondents, therefore, went through the entire process of consultation. They considered the facts including the necessity and importance of culverts in the border areas. It is in these exceptional circumstances that the respondents decided on that occasion to permit even the contractors in composite category to participate in the tender process.

8. In the circumstances, the petition is dismissed.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(AVNEESH JHINGAN)
JUDGE

28.03.2018
ravinder

Whether speaking/reasoned	√ Yes/No
Whether reportable	Yes/No√