

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Civil Writ Petition No. 9057 of 2018

Date of Decision: 16.04.2018

New Guru Nanak Transport Company

.....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. Karan Bhardwaj, Advocate
for the petitioner.

Mr. Avinit Avasthi, AAG, Punjab.

Mr. Nitin Kaushal, Advocate
for respondent No.6.

S.J.VAZIFDAR, CHIEF JUSTICE (ORAL)

One Kamaljit Singh carries on business as a transporter in the firm name and style of the petitioner as the sole proprietor thereof. The petitioner has challenged the issuance of the work order in favour of respondent No.6 and the rejection of his bid.

2. The official respondents issued a Notice Inviting Tenders for the transportation of food grains from mandis to storage points, cartage of grains from mandis to storage points and labour operations at various storage centres in Fardikot District for the year 2018-19. The petitioner contends that he had only received a text message stating that his technical bid had been rejected and that no reasons for the same has been communicated to him. This statement was made before us which persuaded us to issue notice of motion and to grant interim relief in terms of our order dated 09.04.2018. The statement does not appear to be correct. The official

respondents had uploaded on their website the reasons for the rejection of the tenders of various parties including the petitioners. The reasons recorded for rejecting the petitioner's bid are as under :-

“The applicant has not submitted the Registration Certificate of all the trucks mentioned in the list uploaded by the applicant, that was mandatory to be submitted to District Tender Committee as per Note II of Point A, mentioned in Technical Qualification of transportation policy issued vide letter No.S.A.(BF)BGI/5(285)-2018/192 dated : 06/03/2018. Hence rejected.”

The petitioner states that the reasons were uploaded only after the petition was filed.

3. Mr. Kaushal, learned counsel appearing on behalf of respondent No.6 states that there are other grounds also on which the petitioner's bid ought to have been rejected including on the ground that the signatures of the persons who have allegedly hired the trucks to respondent No.6 and even the chartered accountant's certificate are forged. These are matters which the official respondents must consider before taking any decision.

4. We also noticed another contention on behalf of the petitioner in our order dated 09.04.2018. The contention was that respondent No.6 does not comply with the following clause in the policy which also forms a part of the NIT. Clause 5 reads as under :-

5. Technical Qualification :-

A. He must possess an arrangement of minimum number of trucks required for each cluster, separately, if he submits a bid for more than one cluster Depending upon the arrivals in

mandis/purchase centers falling under each cluster, he must have an arrangement of trucks as under :-

Sr. No.	Arrival in Mandis and Purchase Centres falling under one cluster	Minimum No. of Trucks required
1	Up to 5000 M.T.	20
2	5001 M.T. to 10,000 M.T.	40
3	10,001 M.T. to 20,000 M.T.	60
4	20,001 M.T. to 30,000 M.T.	90
5	30001 M.T. to 40,000 M.T.	120
6	40,001 M.T. to 50,000 M.T.	150
7	50,001 M.T. to 75,000 M.T.	180
8	75,001 M.T. to 1,00,000 M.T.	210
9	Above 1,00,000 M.T.	240

Note : I The tenderer shall upload list of trucks having valid registration numbers, duly verified from “VAAHAN software”, which he intends to use for transportation work.

Note: II Copies of Registration Certificates of all the trucks mentioned in the above list along with copy of verification report generated from “VAAHAN software” will be submitted to the District Tender Committee, on the spot (i.e. at the time of evaluation of technical bid).

Note: III if a tenderer intends to use trucks from any firm, company or society, for the work of transportation, he shall have to upload an undertaking/an agreement executed by him with such firm, company or society, as the case may be, mentioning therein the number of trucks and their registration numbers, duly verified from “VAAHAN software”.

5. Clause 1 merely requires the tenderer to upload the list of trucks having valid registration numbers, duly verified from “VAAHAN

software”, which he intends to use for transportation work. Note I does not require the trucks to be owned by the bidders. Nor does Note I require an undertaking to be furnished by those who make trucks available to the bidders. Respondent No.6 has furnished the list of trucks. The contention, therefore, that the bid of respondent No.6 is not in order is not sustainable.

6. It is also contended that the petitioner's bid was substantially lower than the sixth respondent's bid. That is a matter for the official respondents to consider. The work order has not been issued as yet. If, for instance, the official respondents find that there is a substantial loss of revenue they are always at liberty to abandon the tender process and issue fresh tenders to protect the revenue. We do not express any opinion as to whether the official respondents ought to do so or not. It is for the official respondents to consider all the facts and circumstances before taking a decision in the matter.

7. The contention that six of the persons whose trucks have been mentioned by respondent No.6 have not, in fact, agreed to hire the trucks to respondent No.6 even if correct makes no difference. Respondent No.6 is required to make available 180 trucks but has furnished a list of 220 trucks.

8. The petition is accordingly disposed of.

(S.J. VAZIFDAR)
CHIEF JUSTICE

(AVNEESH JHINGAN)
JUDGE

16.04.2018
anju

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