

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

CWP-32838-2019 (O&M)

Date of decision:-21.11.2019

M/s Jain Electricals

...Petitioner

Versus

Punjab State Power Corporation Ltd., Patiala and others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJIV SHARMA

Present: Mr. Rajesh Kumar Girdhar, Advocate,
for the petitioner.

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RAVI SHANKER JHA, C.J. (ORAL)

This petition has been filed by the petitioner praying for a direction to the respondent-authorities to abide by the terms and conditions of the tender inquiry dated 05.07.2019 and to issue work order to the petitioner as per clause 1.3.3 of the tender inquiry.

The petitioner has also prayed for quashing the fresh tender proceedings or the tender inquiry initiated by the authorities by issuance of notice on 01.11.2019.

It is submitted by learned counsel for the petitioner that the petitioner had applied for award of contract to hire outsourced technical manpower and complaint handling bikes and complaint handling wagon for attending to/resolving the fuse off call complaints and LT/HT line breakdowns for restoration of electrical power supply and maintenance in Barnala Circle. It is submitted that the contract as per the tender inquiry was for a period of one year.

It is stated that the petitioner being the successful tenderer was issued the work order dated 15.10.2019 (Annexure P-3). It is stated that the work order was initially for a period upto 31.12.2019 and not for a period of one year

as mentioned in the tender inquiry. It is submitted that as the authorities have issued the work order for only 2 ½ months instead of one year, as contained in the tender inquiry, therefore, the work order is contrary to law and the terms of the tender inquiry. It is stated that the authorities instead of issuing the work order for a period of one year have issued the same for only 2 ½ months and have thereafter issued the fresh tender inquiry on 01.11.2019 for the same work for which the work order has already been issued to the petitioner.

On the basis of the aforesaid factual contentions, the learned counsel for the petitioner prays for quashing the subsequent tender inquiry as well as for a direction to the authorities to issue the work order to the petitioner for a period of one year.

We have heard learned counsel for the petitioner at length.

Before we advert to the issue raised by the petitioner, it is pertinent to note that pursuant to the tender inquiry, no contract or agreement has till date been signed or entered into between the parties. It is also pertinent to note that clause 3.24 of the Instructions to Bidders contains an arbitration clause which provides for dispute resolution between the parties. Admittedly, the petitioner has not raised any such dispute or taken up the issue in this regard with the authorities.

Quite apart from the above, from a perusal of the work order dated 15.10.2019, it is apparent that in paragraph 6 of the work order relating to completion period of contract it is clearly stated that initially the work order would be upto 31.12.2019 i.e. 2 ½ months and thereafter on review of the performance of the contractor, decision to continue or discontinue the work will be taken with a further stipulation that at the discretion of the authorities the contract period would be further extended for two years i.e. total for three years. The work order further provides that the person to whom

the work order has been issued, namely, the petitioner shall commence the work within seven days from issue of the work order. Admittedly and apparently, after issuance of the work order, the petitioner has not commenced the work within seven days.

In such circumstances, it is apparent that the petitioner has not taken any steps pursuant to the work order issued to the petitioner which would indicate acceptance thereof, namely, any steps to accept or enter into any contractual relationship as the work has not been commenced within seven days and further requirements and stipulations contained therein have not been complied with by the petitioner. From paragraph 6 of the work order, it is also apparent that it provides for an appraisal of the performance of the contractor and the extension of the contract is subject to the performance. The petitioner having not commenced the work, question of assessing performance etc. has not arisen at this stage. The petitioner has also not invoked clause 3.24 of the Instructions to Bidders and, therefore, in such circumstances, we do not find any reason to either interfere in the petition or issue any of the directions prayed for by the petitioner.

The petition filed by the petitioner being meritless is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(RAJIV SHARMA)
JUDGE

21.11.2019

Anodh

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