

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

Civil Writ Petition No. 8759 of 2018 (O&M)

Date of Decision: 18.01.2019

Harmesh Singh

.....Petitioner

versus

General Manager, Food Corporation of India, Panchkula, Haryana and
another

.....Respondents

**CORAM: HON'BLE MR.JUSTICE KRISHNA MURARI, CHIEF JUSTICE
 HON'BLE MR. JUSTICE ARUN PALLI, JUDGE**

Present : Mr. Rajiv Kumar Kawatra, Advocate, for the petitioner.
 Mr. Vipin Pal Yadav, Advocate, for respondent-FCI.
 Mr. Anurag Chopra, Advocate for respondent No.2.

KRISHNA MURARI, CHIEF JUSTICE

By means of this petition filed under Article 226 of the Constitution of India, a challenge has been laid to the decision dated 13.02.2018 declaring the technical bid to be non-responsive and rejecting the same. A further writ of mandamus has been claimed to command the respondents to accept the tender of the petitioner.

2. The facts relevant for the purpose of this case in a nut-shell can be summarized as under:-

The petitioner is engaged in contract work of supplying transport and labour to the various government departments. Respondent-Food Corporation of India issued a Notice Inviting Tender dated 27.11.2017 for the appointment of handling and transport contractor for various centres in the State of Haryana. As per the prescribed schedule, online tender was to be submitted upto 18.12.2017 by 4.00 P.M. and technical bid was to be opened on 19.12.2017 at 4.30 P.M. In pursuance to the aforesaid notice, the petitioner also submitted the tender for three stations, namely, Baraguda,

Dhingtania and Kharia. One of the terms and conditions prescribed in the NIT, namely, condition No. 10 was that the tender fee and EMD was required to be deposited separately and only from the account of the bidder.

It may be relevant to extract clause 10 which reads as under:-

“10. Bidders must ensure that tender fee and EMD is deposited separately and only from the Account of Bidder Firm/partner’s account. In the case of sole proprietor, from the account of proprietor.”

3. In accordance with the aforesaid terms and conditions contained in the NIT, the petitioner who is the sole proprietor, was under an obligation to deposit the tender fee and EMD from his own account. Admittedly, the amount towards the aforesaid two heads was transferred from the account maintained with the Central Bank of India which according to the own case set up by the petitioner is a joint account standing in his name alongwith his wife. Once it is an admitted case that the petitioner failed to comply with the terms and conditions of the NIT, no fault can be found with the decision taken by the Tender Evaluation Committee to reject the technical bid of the petitioner being non-responsive.

4. Learned counsel for the petitioner submits that the certificate produced by the petitioner from the bank clearly certified the deposit of aforesaid amount and thus the rejection is without any rhyme and reason. The argument advanced is misconceived. The technical bid of the petitioner has been held to be non-responsive for non-compliance of the condition No.10 which provided that the tender fee and EMD was to be deposited from the account of the proprietor. The technical bid has been held to be non-responsive not because of the non-deposit but due to non-compliance of the conditions of the NIT. Thus, no fault can be found with the decision taken by the Tender Evaluation Committee to reject the technical bid of the petitioner being non-responsive.

5. In view of the above facts and discussion, the petition fails and accordingly stands dismissed.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

18.01.2019
ravinder

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