

CWP No. 7645 of 2018

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

**CWP No. 7645 of 2018
Date of decision: 17.07.2019**

M/s Ambay Transport Co.

... Petitioner

Versus

Food Corporation of India and another

... Respondents

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

Present: Mr. D.S. Patwalia, Senior Advocate, with
Mr. Kannan Malik, Advocate,
for the petitioner.

Mr. J.S. Puri, Advocate,
for the respondent-FCI.

Mr. Gurminder Singh, Senior Advocate, with
Mr. J.S. Gill, Advocate, and
Mr. H.P.S. Bhinder, Advocate.
for respondent No.2.

ARUN PALLI, J. (Oral)

A writ in the nature of mandamus is prayed for, commanding respondent No.1-Food Corporation of India (hereinafter referred to as 'FCI') to restrain from awarding the tender/contract, pursuant to NIT dated 25.1.2018, to respondent No.2, whose bid had since been accepted.

Facts that are required to be noticed are limited.

The FCI invited E-tenders for appointment of Handling and Transport Contractor (HTC), Kotkapura, for a period of two years, vide tender notice dated 25.1.2018. The limited grievance that the petitioner has is: respondent No.2 had submitted his bid as a small enterprise, so as to avail

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the benefit/relaxation admissible to Micro & Small Enterprises, (MSEs), whereas it did not fulfill the requisite terms, prescribed to be eligible in the said category. Significantly, for vide an interim order dated 27.3.2018, the FCI was restrained from awarding the work order to respondent No.2, it resorted to an *ad hoc* arrangement for movement of food grains, in the interregnum. Ex facie, since 25.1.2018, a period of more than one and a half year has already gone by.

We have heard learned counsel for the parties at length, whereupon a consensus has emerged between them: as only a period of six months remains out of the initial period of two years, for which the contract was to be awarded, it would rather be expedient if the FCI re-initiates the process, confining to the petitioner and respondent No.2, with downward bidding from the lowest bid submitted by respondent No.2. Whereupon, the work shall be assigned to the lowest tenderer. It shall be open to the FCI to award the contract for a period of six months or for a longer period, as it may choose and decide.

Further, learned counsel for the FCI submits as the time is the essence of the situation, the parties be directed to appear/approach the competent authority at Regional Office, Food Corporation of India, Punjab, Chandigarh, by tomorrow, i.e. 18.7.2019, at 11:00 AM.

In response, learned senior counsel for the petitioner as also respondent No.2 submit that the parties shall report to the competent authority and abide by the date and time indicated by the learned counsel for FCI.

In the wake of the above, nothing substantive survives in this petition. However, we may clarify, for we have not examined the question

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as regards eligibility of respondent No.2 to bid as MSEs in the present lis,
the issue is kept open to be adjudicated in other appropriate proceedings, if
necessary.

The petition is accordingly disposed of, in the above terms.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

July 17, 2019

AK Sharma

Whether speaking / reasoned:
Whether Reportable:

YES
NO