

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

CWP No. 8052 of 2020 (O&M)
Date of Decision: 30.09.2020

M/s. A.K. BHOKAR AND COMPANY

...PETITIONER

VS.

STATE OF HARYANA AND ANOTHER

.....RESPONDENTS

CORAM: **HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.**
 HON'BLE MR. JUSTICE ASHOK KUMAR VERMA

Present: Mr. Alok Mittal, Advocate
 for the petitioner.

 Mr. Ankur Mittal, Additional Advocate General, Haryana,
 for respondent No. 1

 Mr. R.S. Doon, Advocate,
 for respondent No. 2-HAFED.

RAKESH KUMAR JAIN, J.

The petitioner has prayed for the issuance of a writ in the nature of *mandamus* for quashing the Technical Summary (Annexure P-2), letter dated 03.03.2020 (Annexure P-18) and letter dated 24.04.2020 (Annexure P-19).

In brief, In a tender dated 18.02.2020 for Labour, Cartage and Transportation of Fertilizer, there were three participants and at the time of opening of the technical bid, all the three were rejected but the bid of the petitioner-firm was rejected on the ground that it was debarred for five years by the Food Corporation of India (FCI).

The common case of the parties is that one Rajbir Singh, the sole proprietor of the M/s. Shiv Shakti Transport Company was debarred for five years by the FCI vide order dated 15.02.2019. He was the partner of the petitioner-firm, however, he had retired on

14.03.2019 and was no more a partner of the petitioner firm when the petitioner had participated in the tender in question.

The case of the petitioner is that once Rajbir Singh was not a partner in the petitioner-firm, the technical bid of the petitioner could not have been rejected on account of debarment of Rajbir Singh by the FCI.

On the other hand, the case of the respondents is that as per Model Tender Form *“that the contractor/tenderer should not have been blacklisted by any of the Government/Semi Government and not connected to any firm, who has been so blacklisted.”*

Counsel for the respondents has submitted that the writ petition has become redundant as the *Rabi* season has already been over and the work under the tender in question has also been completed.

Counsel for the petitioner has argued that this issue requires adjudication as to whether a partner in the firm, debarred by the FCI for five years, if retires or resigns before applying for the tender, whether the clause referred to in the Model Tender Form would apply?

According to the petitioner, the words *“not connected to any firm”* used in the aforesaid clause of the Model Tender Form is in the present and not in the past.

We have heard counsel for the parties and after perusal of the record, are of the considered opinion that the arguments raised by the counsel for the parties appears to be logical because the aforesaid clause in the Model Tender Form does not say that it would apply to a

case of contractor/tenderer who was blacklisted and no more connected with the firm.

Thus, in our considered opinion, rejection of the technical bid of the petitioner by the respondents only on the ground that one of its partners was blacklisted though the said partner was no more associated with the firm in any manner when the technical bid was submitted, is totally arbitrary and illegal.

In view of the aforesaid facts and circumstances, the question posed hereinabove has been answered but as the 100% of the tender work of the present Rabi season has already been over, therefore, no further relief is granted to the petitioner.

With these observations, the petition stands disposed of.

[RAKESH KUMAR JAIN]
JUDGE

September 30, 2020
Ess Kay

[ASHOK KUMAR VERMA]
JUDGE

<i>Whether speaking / reasoned</i>	:	<i>Yes</i>	<i>/</i>	<i>No</i>
<i>Whether Reportable</i>	:	<i>Yes</i>	<i>/</i>	<i>No</i>