

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C.W.P. No.9968 of 2020

Date of Decision : July 16, 2020

The Ghalouri Gate Cooperative Labour &  
Construction Society Ltd. and others .... Petitioners

vs.

The State of Punjab and others .... Respondents

**CORAM : HON'BLE MRS. JUSTICE DAYA CHAUDHARY.  
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA.**

\* \* \*

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

Mr. Vikas Mohan Gupta, Additional Advocate General, Punjab  
for respondents No.1 and 2.

Mr. Sanjeev Soni, Advocate  
for respondents No.3 and 4.

\* \* \*

**MEENAKSHI I. MEHTA, J. :**

By way of this petition, the petitioners have sought the indulgence of this Court for issuance of a writ in the nature of certiorari quashing the tender notice dated 24.06.2020 (Annexure P/4) issued by respondents No.3 and 4 for 11 projects by clubbing more than 50 works at different locations. They have also prayed for the issuance of a writ in the nature of mandamus directing the respondents to float separate tenders for separate works at different locations.

2. Bereft of unnecessary details, the averments, as set-forth by the petitioners in the instant petition are that they are Co-operative Labour and

Construction Societies, duly registered under the Punjab Co-operative Act, 1961 (for short “the Act of 1961”) and they have flawlessly executed several works assigned to them from time to time. They are also enlisted with PWD (B&R) Department. Earlier, the Government used to float tenders by clubbing several works and by imposing stringent conditions for the same. Due to this reason, the Co-operative Labour and Construction Societies were constrained to file Civil Writ Petitions in this Court in the years 2005 and 2008. Thereafter, the Government of Punjab constituted a high-level Committee to look into the difficulties being faced by such Societies and the said Committee decided to continue the concessions given to these Societies by issuing notifications and the same were also made applicable to the tenders issued by the Local Government.

3. The petitioners have, further, averred that on 27.01.2009, a meeting, presided over by the then Chief Minister of Punjab, was held wherein it was decided to promote the Co-operative Labour and Construction Societies with the objective of overcoming the unemployment by providing employment to the poor youth. Though it was also decided in the said meeting that no department would issue any letter in respect of the said Societies which might be against the spirit of the notification granting benefits to them but despite that, various departments are imposing conditions against the spirit of the said notification. On 04.11.2019, the State Government issued a notification granting concession to the said Societies wherein it was notified that all unskilled works upto any value and all skilled works upto Rs.60 lacs shall be given to the said Societies.

4. It has also been averred by the petitioners that on 24.06.2020, respondents No.3 and 4 have issued/floated a tender notice (Annexure P/4) for 11 works worth Rs.2488.11 lacs wherein the last date for online submission of the bids has been fixed as 20.07.2020 and opening of such bids has been scheduled for 21.07.2020. A perusal of this notice shows that the works mentioned at Sr. Nos.1 to 9 therein, are separate works for different locations but the same have been clubbed together which has led to increase in the estimated cost of a single work and has, thus, rendered the Co-operative Labour and Construction Societies ineligible to compete for the same. They (the petitioners) as well as the other such like Societies moved a representation on 07.07.2020 against the issuance of the afore-said tender notice but no action has been taken thereon.

5. Today, Shri Vikas Mohan Gupta, learned Additional Advocate General, Punjab has put in appearance on behalf of respondents No.1 and 2 whereas Mr. Sanjeev Soni, Advocate has appeared to represent respondents No.3 and 4 in the present petition.

6. We have heard learned counsel for both the parties in the petition in hand at the preliminary stage and have also perused the file thoroughly.

7. Learned counsel for the petitioners contends that as per Annexure P/4, i.e. the notice inviting e-tenders, several works have been clubbed together resulting in the increase in the tender cost beyond Rs.60 lacs i.e. the limit provided for allotment of the skilled works to Co-operative Labour and Construction Societies and it has been done intentionally and

malafidely so as to oust such Societies from participating in the process of the tendering of the bid itself and also to give undue benefit to certain contractors/agencies. To buttress his contention, he has placed reliance upon the observations made by the Division Bench of this Court in **CWP No. 7431 of 2017**, decided on 11.05.2017, titled as **The Phagwara Palledari Cooperative Labor & Construction Society Ltd. vs. State of Punjab and others**.

8. However, learned counsel for the respondents have argued that the works have been clubbed in tender notice Annexure P/4 for the purpose of administrative convenience and also to avoid the multiplicity of disputes which may arise qua the execution of these works and they have further argued that even otherwise, it is entirely for the Authority/Agency inviting the tenders to determine and decide the mode and manner of the execution of the work. They have also referred to the observations made by the Division Benches of this Court in **C.W.P. No. 5265 of 2016**, decided on 30.05.2016, titled as **Rajowal Cooperative Labour & Construction Society Ltd. and others vs. Municipal Corporation, Ludhiana and others** and in **CWP No. 3707 of 2016**, decided on 12.07.2016, titled as **The Jhumba Co-operative Labour & Construction Society Limited vs. State of Punjab and others**, in support of their arguments.

9. Undisputedly, floating of the tenders/issuance of the notice to invite tenders is purely a part of the commercial transaction intended to be entered into between the two parties for the execution of certain work. The agency/authority inviting tenders is supposed to be well within its rights to

stipulate the terms and conditions for the mode as well as the manner of the execution of the such work. A perusal of the notification dated 04.11.2019, i.e. Annexure P/3, as issued by the Government of Punjab, Department of Cooperation, reveals that it provides for certain preferences and benefits for the Co-operative Labour and Construction Societies. However, there is nothing in the same to suggest that the works sought to be executed are required to be segregated so as to enable such Societies to participate in the tender process. Even otherwise, the segregation of the works, as prayed for by the petitioners in this petition, may lead to administrative inconvenience for the tender inviting Agency/Authority in entering into multiple contracts and may also result in multiplicity of the disputes which may arise in respect of the execution of the allotted works. Though Annexure P/5 is the copy of the representation as stated to have been submitted by various Societies, including petitioners No.1 to 3, to respondent No.3 wherein it has been mentioned that one official of the Engineering Branch of the respondents has floated the impugned tender by clubbing the works so as to give undue benefits to his favourite contractors but however, the fact remains that the applicants have not even disclosed the names of the said official as well as of his alleged favourite contractors.

10. So far as the observations as made in **The Phagwara Palledari Cooperative Labour & Construction Society Ltd. (supra)** are concerned, the same do not come to the aid of the petitioners to substantiate their claim because in the afore-cited case, the tenders were invited for unskilled work for which, as per the notification dated 02.10.2014 as issued by the

Department of Cooperation, Punjab, the preference was to be given to the Co-operative Labour and Construction Societies and no cost limit had been fixed in the said notification for such like works whereas in the present case, a perusal of tender notice Annexure P/4 reveals that it has been issued to invite the tenders for re-carpeting/strengthening of the roads, development of the parks, construction of the streets and boundary walls of several parks, development of the dump-site and raising of the high-mast as well as laying of inter-locking tiles in several streets which, undisputedly, involve skill and cannot be termed as “unskilled works”.

11. Rather, the observations made by the Division Bench of this Court in **Rajowal Cooperative Labor & Construction Society Ltd.** (*supra*) squarely cover the instant petition because the challenge therein was also to the clubbing of several works and it has been observed therein that :-

*“13. .... The official respondents are the best judges of the manner in which the works would be most suitably and efficiently executed. They avoided the option to fragment these works into multiple contracts. It was obvious that the documentation would increase substantially. Separate documentation would have been entered into in respect of each contract. This would obviously multiply costs – legal and administrative. ....”*

These observations have, subsequently, been relied upon by the Division

Bench of this Court while deciding The Jhumba Co-operative Labour & Construction Society Limited (*supra*).

12. As a sequel to the foregoing discussion, it follows that the present petition, being devoid of any merit, deserves dismissal. We order accordingly.

(DAYA CHAUDHARY )  
JUDGE

(MEENAKSHI I. MEHTA)  
JUDGE

July 16, 2020  
*monika*

|                             |         |
|-----------------------------|---------|
| Whether speaking/reasoned ? | Yes/No. |
| Whether reportable ?        | Yes/No. |