

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

Sr. No.205

**CWP No.10340 of 2020 (O&M)
Date of Decision : 31.08.2020**

M/s e-Procurement Technology

..... Petitioner

Versus

State of Haryana and another

..... Respondents

**CORAM : HON'BLE MR. JUSTICE AJAY TEWARI
HON'BLE MRS. JUSTICE ARCHANA PURI**

Present : Mr. Shekhar Prit Jha, Advocate
for the petitioner.

Mr. Aman Bahri, Addl. A. G., Haryana.

AJAY TEWARI, J. (ORAL)

1. This petition has been filed against the order dated 25.06.2020 passed by the respondent No.1 rejecting the bid of the petitioner for providing e-Procurement Solution.

2. It is averred that the petitioner, pursuant to the tender dated 12.07.2019, bid for the same and after the evaluation the petitioner was amongst the four who had been declared to be qualified in the technical bid. Thereafter, one of the other vendors made a complaint against the petitioner.

Pursuant to that complaint, a show cause notice was issued to the petitioner in which the following allegations were listed.

- “a. Letter from Directorate of Ports, Kerala dated 22.05.2013 addressed to e-Procurement Technology Ltd. in which it has been informed that the contract is being terminated with e-Procurement Technology Ltd. since their clients are not able to submit bids which delayed intended goals of project and caused additional cost for re-tendering.
- b. Letter from Rashtriya Chemicals & Fertilizers Ltd. GOI Enterprises dated 12.04.2014 addressed to e-Procurement Ltd. in which the said firm was debarred/holiday for participating in any tender of RCF for a period of two years due to (i) failed to retain record and documents to defend against the writ petition in favour Courts due to which strictures were passed by Hon'ble Court on RCF ii) was found following unethical business practices by taking advantage of RCF Contract and collecting money from RCF vendors before/during RCF e-Auction events for businesses not related to scope and terms of contract.
- c. Letter from Meera Bhaindar Municipal Corporation District Thane dated 01.11.2012 addressed to e-Procurement Technology Ltd. in which, it has been informed that the said firm had violated the terms & conditions of the contract in respect of software/solution becoming non functional and non submission of Performance Guarantee even after lapse of 33 months.
- d. Letter from Artificial Limb Manufacturing Corporation of India GOI Enterprise dated 02.03.2017 addressed to e-Procurement Technology Ltd. in which the contract with the said firm was terminated due to concealments of facts and breach of tender conditions.”

3. The petitioner filed a reply and, as regards the allegations at Sr. Nos.(b) & (d) (supra), gave its clarification but did not offer any explanation for the allegations at Sr. Nos.(a) & (c) (supra). Pursuant thereto the impugned order has been passed.

4. Learned counsel for the petitioner has argued that the petitioner has undertaken several such projects and as regards allegations at Sr. Nos.(b) & (d), they furnished no ground for rejection of the bid.

5. Learned Additional Advocate General on the other hand has argued that even if the petitioner has succeeded in rebutting the allegations made at Sr. Nos.(b) & (d) yet considering the overall picture, no fault could be found with the order rejecting the bid of the petitioner.

6. We have carefully considered the matter and, find that the Ports Trust Kerala & Meera Bhaindar Municipal Corporation District Thane had both terminated similar e-Procurement contracts of the petitioner on account of delays and software becoming non-functional etc. and this fact has not been denied by the counsel for the petitioner.

7. Learned counsel for the petitioner has further argued that the impugned order is stigmatic and would have the effect of debarring the petitioner.

8. A perusal of the impugned order indicates that only the bid of the petitioner has been rejected but it has not been debarred.

9. As regards the rejection of bid of the petitioner, we find that good grounds existed for the same. It cannot be lost sight of that in these kinds of commercial matters the grounds no.(a) & (c) assume huge practical importance.

10. The petition is dismissed.
11. Since the main case has been decided, the pending C.M. Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

(ARCHANA PURI)
JUDGE

August 31, 2020
ashish/poojasharma-I

Whether speaking/reasoned	Yes/No
Whether Reportable :	Yes/No