IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.12735 of 2020 & other connected matters
Date of Decision:25.08.2020

Varun (Proprietorship Concern) through its proprietor

...Petitioner

Versus

Food Corporation of India through its Managing Director and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE JASWANT SINGH
HON'BLE MR. JUSTICE SANT PARKASH

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

Mr. Sumeet Goyal, Advocate for the respondents-FCI.

JASWANT SINGH, J. (ORAL)

[The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual court.]

This common order shall dispose of 11 writ petitions bearing CWP Nos.12735 to 12738, 12740, 12741, 12743, 12745, 12748, 12751 and 12752 of 2020 involving similar facts and issues claiming identical reliefs.

Petitioner, proprietorship concern, is a contractor engaged in the business of carrying out transport and handling services. It furnished its bids for 11 routes for providing Adhoc Road Transport Services pursuant to the tender notices dated 28.07.2020 / 03.08.2020 floated by the respondent-Food Corporation of India. The technical bids were opened on 21.08.2020. The technical bids of the petitioner for the said 11 routes were rejected on the common ground that "the audited profit and loss statement as also the balance sheet were not uploaded", in terms of the requirement of list of documents to be attached as per the terms of tender notice/Model Tender

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Forms.

The submission of the petitioner is two fold:-(i) actually the audited profit and loss statement as well as balance sheet were uploaded (ii) these very documents were earlier accepted as valid at the time of allotment of work in terms of the tender floated by the Food Corporation of India in December 2019 and June 2020 for different routes. Thus the rejection of technical bids is bad in law.

Learned counsel for the respondents-Food Corporation of India has relied upon sub-clause (c) of Clause XX of Model Tender Form (MTF) (at page 50), to submit that the petitioner had an effective alternative remedy to approach the Grievance Committee within 3 working days of their rejection of their technical bids and thus, these writ petitions are not maintainable. He, however, concedes that even these writ petitions being within time, can be considered as a representation in view of the aforesaid clause.

For ready reference, aforesaid sub-clause (c) of Clause XX of MTF reads as under:-

> *"The result of technical evaluation will be uploaded on the CPP portal. In case there are technically disqualified bladders, the reasons for disqualification will be uploaded and price bid shall be opened only after three working days. If any or the bidders is disqualified,* ***he may submit grievance (if any) to General Manager/Divisional Manager (Region) within three working days from the date of disqualification.*** *However, no new documents will be accepted. In case of receipt of grievance, General Manager/Divisional Manager will redress the grievance by passing Speaking Order within (7) working days. In case of receipt of grievance from any disqualified bidder, the validity period of the tender shall get*

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automatically extended by 15 working days, which shall be binding on all the bidders.

Emphasis supplied"

Learned counsel for the petitioner submits that his clients have already filed their objections against the rejection of the technical bids for the said 11 routes, in terms of the aforesaid sub-clause (c), which, however, would not be an effective remedy, in the light of the financial bids to be opened today itself on 2.00 PM, thereby creating third party rights.

After hearing learned counsel for the parties, we deem it appropriate to dispose of all these 11 writ petitions with a direction to the competent authority vested with the jurisdiction to decide the objections (if necessary including the contentions raised in the present writ petitions), filed by the petitioner, in terms of the aforesaid clause (c), in accordance with law.

(JASWANT SINGH)
JUDGE

(SANT PARKASH)
JUDGE

25.08.2020
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Whether speaking/reasoned: Yes / No
Whether Reportable: Yes / No

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