

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 13573 of 2020 (O&M)
Date of decision:- 04.09.2020

M/s P.J.& Company

.....Petitioner

Versus

Food Corporation of India and another

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI, JUDGE.**

Present:- Mr. Gurminder Singh, Sr. Advocate with
Mr. R.S.Bara, Advocate, for the petitioner.

Mr. K.K.Gupta, Advocate, for FCI.

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RAVI SHANKER JHA, C.J. (ORAL)

With the consent of learned counsel for both the parties, the matter is being taken up and heard via video conferencing.

This petition has been filed by the petitioner being aggrieved by the order dated 28.08.2020 whereby the representation of the petitioner against rejection of his technical bid submitted for allotment of handling and transportation contract for Sangrur centre under the Food Corporation of India Divisional Office, Sangrur for a period of two years was rejected.

Essentially the petitioner has raised two grounds. Firstly, that the rejection of his technical bid merely on the ground that the special power of attorney required to be filed by him along with the tender was incomplete is *malafide* and should have been ignored as the mistake occurred on account of technical fault while submitting the tender documents online and secondly the acceptance of the bid of respondent No.2-Hans Raj & Sons company by the respondent-FCI is also erroneous as the documents submitted by respondent No.2-Hans Raj & Sons company were also wrong and false inasmuch as the income tax return was purportedly submitted by

Hans Raj, who on the date of submission of income tax return in the year 2019 was already dead, for he died in the year 2017. Further, the percentage of the shares of the partners was not properly mentioned.

We have heard learned counsel for both the parties at length.

At the outset it is noted that the fact that special power of attorney submitted by the petitioner alongwith his tender document was incomplete is not disputed but infact an admitted fact. Though it is submitted by learned senior counsel for the petitioner that the complete document was sought to be submitted and uploaded by the petitioner but on account of technical glitch 4th page of the document could not be uploaded.

In the light of the fact, the default on the part of the petitioner is not denied. And keeping in view the provisions of clause 5(b)(II) and clause 8 of the tender document, we do not find any illegality or impropriety in the order passed by the respondent-authorities affirming the rejection of the petitioner's technical bid.

As far as the second ground; it is observed that the respondent-authorities while deciding the representation of the petitioner vide the impugned order has neither adverted nor determined the issues raised by the petitioner in the right earnest and rather simply rejected his objection on this ground that Bid Evaluation Committee had examined the tender of respondent No.2-Hans Raj & Sons company and had found it to be as per the requirement of the NIT/MTF.

Faced with this, learned counsel appearing for the respondent-Food Corporation of India submits that the issue regarding the defects, if any, in the bid submitted by respondent No.2-Hans Raj & Sons company shall be examined and decided by the respondent-authorities by passing a speaking order.

And while taking such decision shall also consider all the concerns expressed by the petitioner even in his representation dated 14.08.2020 (Annexure P-14) submitted subsequent to the disposal of the previous petition filed by the petitioner.

In the circumstances, while we dismiss the petition as far as the challenge to the rejection of the petitioner's technical bid is concerned, the petition is disposed of in terms of the statement made by learned counsel appearing for the Food Corporation of India regarding taking a decision by passing a detailed order in respect of the errors and defaults the bid submitted by respondent No.2-Hans Raj & Sons Company allegedly suffered from.

It is made clear that if so required the Food Corporation of India shall give due opportunity of hearing to respondent No.2 before taking any decision. It is further made clear that we have not expressed any opinion on the objections raised by the petitioner regarding respondent No.2 Hans Raj & Sons Company and therefore, the respondent-authorities would be at liberty to examine it by taking all the facts and facets into consideration. The order or decision so taken by the Food Corporation of India be communicated to the petitioner to enable him to take up all the remedies available to him under the law against the same.

With these observations, the petition stands disposed of.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

04.09.2020
ravinder

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No