

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 21066 of 2020 (O&M)

Date of decision:- 08.12.2020

Rashmi Metaliks Limited.

.....Petitioner

Versus

State of Haryana and others

...Respondents

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

Present:- Mr. S.K.Garg Narwana, Sr. Advocate with
Mr. Mukesh Rao, Advocate, for the petitioner.

Mr. Ankur Mittal, Addl. Advocate General, Haryana,
for the respondents.

(The aforesaid presence is being recorded through video conferencing since the proceedings are being conducted in virtual Court).

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RAVI SHANKER JHA, C.J. (ORAL)

The petitioner (Rashmi Metaliks Limited) prays for a certiorari to quash the second tender (Annexure P-20), published by Supplies and Disposal Department, Haryana on 25.11.2020, vide which the bids have been invited for supplying the same material i.e. ISI marked Centrifugally Cast (Spun) Ductile Iron Pressure Pipes Class K-7 and K-9 for water gas and sewerage purpose without opening the first tender (Annexure P-6). Thus, to command the respondents to first open and process the first tender (Tender ID No. 2020_HRY_122887_1). Condition No. 13 is also being assailed for being unjust, irrational and actuated by malafides, when compared to Condition No.13 stipulated in the first tender (Annexure P-6).

2. Learned Senior counsel for the petitioner submits that petitioner being fully eligible, in response to the first tender had submitted its bid on 29.06.2020 with all the requisite documents appended therewith. However, on 13.07.2020, a Senior Executive of the petitioner company was informed that the respondent-authorities had received a complaint from one

that owing to substandard quality of pipes supplied by M/s Rashmi Metaliks Ltd. (petitioner), the subject bidder had been debarred by Madhya Pradesh Urban Development Company. Whereas, neither the petitioner was ever debarred by the Department of Urban Development Housing, Government of Madhya Pradesh nor, despite all efforts, the antecedents of alleged complainant (R.S.Dangi) could be ascertained. Rather, he submits, it appears that no such person existed and infact the motive is to somehow oust the petitioner from the competitive process. And now surprisingly, the authorities have issued a second tender without opening and processing the first with the only alteration caused in Condition No.13 of the tender documents. And faced with this situation, the petitioner had even expressed its grievances, vide representation(s) dated 25.11.2020 (Annexure P-18) addressed to the Chief Minister, Government of Haryana, as also dated 01.12.2020 (Annexure P-21) to the respondent authorities but to no avail.

3. In response, the learned Additional Advocate General, Haryana, who is present upon being served with an advance copy of the petition, submits that grievance of the petitioner is wholly unfounded. For vide letter dated 02.12.2020 , all the participant bidders had been informed, that pursuant to the decision of the Technical Committee on 23.10.2020, the Tender ID No. 2020_HRY_122887_1 for arranging annual rate contract of ISI marked Ductile Iron pipes had since been closed. And as regards Condition No. 13 of the IInd tender, he submits that all what it stipulates is that for the tenderer to be eligible to bid, it should not have been blacklisted/debarred/disqualified/disallowed to supply the Ductile Iron Pipes in terms of the said condition. In any case, he submits for one of the grievances of the petitioner is that despite his representation(s) being pending consideration, as no decision has so far been taken thereupon, the

disposed of, at this stage, to enable the respondent-authorities to consider and decide the said representations. Further, he submits, as the date stipulated for on-line bid preparation and submission in respect to the second tender is upto 10.12.2020 at 2.00 P.M. , the authorities shall decide the said representation(s) and pass appropriate orders, after affording an opportunity of hearing to the authorized representative or the counsel for the petitioner within a day i.e. by 09.12.2020.

4. Having heard learned counsel for the parties, we consider it just and expedient to dispose of the petition, at this stage, in terms of the statement of the learned State counsel and direct the respondent authorities to consider and deal with the grievances and concerns raised by the petitioner in its representation(s) dated 01.12.2020 (Annexure P-21). And pass appropriate orders after affording an opportunity of hearing to the petitioner in terms of the statement made by the learned State counsel, in accordance with law.

Needless to assert, the respondent authorities shall intimate the venue and time to the petitioner or its counsel for the purpose of hearing today itself and shall communicate the orders that shall be passed on its representation(s) immediately. Needless to assert that this order shall not constitute any expression of any opinion on the merits of the case of either party.

5. With these observations and directions, the petition stands disposed of.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

08.12.2020
ravinder

Whetherspeaking/reasoned	Yes/No
Whetherreportable	Yes/No