

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

**CM-53-CWP-2020 in/and
CWP No.35872 of 2019
Date of Decision :16.01.2020**

Guru Kirpa Overseas

.....Petitioner

Versus

State of Punjab and another

..... Respondents

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

Present : Mr. Nitin Thatai, Advocate for the petitioner.
Mr. Suveer Sheokand, Addl.A.G. Punjab.
Ms. Deepali Puri, Advocate for respondent No.2.

RAVI SHANKER JHA, CHIEF JUSTICE (Oral):

This petition has been filed by the petitioner being aggrieved by the order dated 06.12.2019, decision of the respondents to cancel the e-auction proceedings conducted for allotment of SCF No. 51 falling under 550 acres Scheme Bhai Randhir Singh Nagar, Ludhiana.

Learned counsel for the petitioner submits that the authorities had put up the said shop for auction through e-auction notice in November 2019 and the last date for submitting the bids was 02.12.2019. Learned counsel for the petitioner submits that the petitioner being desirous of seeking allotment of SCF No.51 submitted its bid for the said shop for a sum of Rs.1,92,15,230/- against the reserve price of Rs.1,46,65,230/-. It is submitted that the petitioner was the highest bidder but the authorities instead of allotting the said shop to the petitioner took a decision to cancel

the auction proceedings.

Learned counsel for the petitioner submits that the petitioner has submitted a bid which was far above the reserve price and it being the highest bidder was entitled for allotment of said shop. It is submitted that the action of the respondents in canceling the auction proceedings without assigning reasons to the same is *mala fide*, arbitrary and discriminatory. It is submitted that the petitioner being highest bidder should be allotted the shop and in the circumstances the impugned decision of the respondents be quashed and they be directed to allot the said shop.

The respondents have filed a return in which it is stated on affidavit that in the auction proceedings the respondents expected a price of amount Rs.2.5 crores for SCF Nos. 50 to 55. It is submitted that for SCF No.50 they have accepted a bid of Rs.2,71,65,230/-. It is submitted that for SCF No.52 they have received a bid of around Rs.2,63,00,000/- in the last auction and for SCF No.53 a sum of Rs.2,20,15,230/-. It is submitted that in such circumstances, competent authority comprising of Chairman of the Improvement Trust, Ludhiana, The Deputy Director, Urban Local Bodies and the Additional Deputy Commissioner, Ludhiana and others on examining the bid felt that the bid was not sufficient, and therefore, took a decision to cancel the same as far as SCF No.51 is concerned. It is submitted that in the circumstances, the decision taken by the authorities to cancel the bid and going for fresh auction with a view to receive a better price for the same is *bona fide* and does not deserve to be interfered with as the decision was taken in accordance with law after examining all the issues, in terms of Clauses 12 and 18 of the terms and conditions of the e-auction.

Learned counsel for the petitioner submits that the respondents have not denied the fact that as far as SCF No.54 is concerned the respondents have accepted a bid of Rs.1,97,65,230/-, and therefore, their contention that they have considered and accepted only those bids that were about 2.5 crores for SCF Nos.50-55 is factually incorrect. He submits that the authorities have accepted a bid of 1.97 crore for SCF-54 they should also have accepted the bid of 1.92 crore submitted by the petitioner for SCF No.51. He further points out that the authorities have again put up the shop No.51 for e-auction and have fixed the reserve price as Rs.1,46,65,230/- and not about 2.5 crores as stated by the respondents. It is submitted that in the circumstances, the decision taken by the respondents authorities is not *bona fide* and is just arbitrary.

Having heard the learned counsel for the petitioner it is observed that the facts regarding the amount received in e-auction proceedings for shop No.50 to 54 as stated by the counsel appearing for the parties are not disputed. In the circumstances, it is evident that the authorities have received more than 2.5 crores for shop Nos.50 and 52 and have gone in for re-auction of shop No.51 whereas they have accepted a bid of Rs.1.97 crores for SCF No.54. It is also evident from the return filed by the respondents that the Committee comprising of the Chairman Improvement Trust, Ludhiana, Deputy Director, Urban Local Bodies, Ludhiana, Additional Deputy Commissioner, Ludhiana and other members examined the aforesaid aspect and had taken a decision to cancel the bid for shop No.51 treating the bid received for the same on the lower side. Apparently, and admittedly there is no allegations of *mala fide* against the

members of the Committee nor they have been impleaded by name or by making specific allegations against them. In the circumstances, there is no reason to arrive at a conclusion that the committee has taken a decision which was not *bona fide*, more so in view of the fact that they received a bid for shop Nos. 50 and 52 at more than 2.5 crores and the amount received for shop No.53 is about 2.2 crores.

The Supreme Court in the case of **Rajasthan Housing Board and another Vs. G.S. Investments and another (2007) 1 SCC 477** while dealing with a similar situation in respect of auction conducted by the Rajasthan Housing Board has held that merely because a person is the highest bidder in an auction, he does not acquire any right to have the auction concluded in his favour until the Chairman of the Housing Board or competent authority, as the case may be, has passed an order accepting the offer. It has further been held that merely because a person is the highest bidder, he does not acquire any vested right to have the auction concluded in his favour and the auction proceedings can always be cancelled. The Supreme Court in the aforesaid decision has relied upon the decision rendered in the case of **Laxmikant Vs. Satyawar (1996) 6 SCC 208** wherein several previous decisions of the Supreme Court had been considered and gone into to state that the aforesaid legal position is settled. The aforesaid decision of the Supreme Court has been affirmed and relied upon by the Supreme Court in the case of **Haryana State Agricultural Marketing Board and others Vs. Sadhu Ram (2008) 16 SCC 405** wherein it has also been reiterated that a decision to cancel the auction proceedings cannot be assailed, if it is not shown to be malafide, unfair or arbitrary. The

Supreme Court in the case of **Meerut Development Authority Vs. Association of Management Studies and another (2009) 6 SCC 171** has also held that the authorities concerned have the right not to accept the highest bid and even to prefer a tender other than that of the highest bidder, if there exists good and sufficient reason such as the highest bid does not represent the market price, in case it is shown that the decision to do so is free from arbitrariness or favoritism.

In the given facts and circumstances, we dismiss the petition by holding that just because the petitioner happened to be the highest bidder, he would not be entitled to any relief, particularly when the authorities, who were the best judge, upon weighing all relevant factors, took a decision for cancellation of bid to secure the financial interest of the trust. Reliance can be placed in this regard on **Rishi Kiran Logistics Private Limited Vs. Board of Trustees of Kandla Port Trust and others (2015) 13 SCC 233**.

In the circumstances and the law laid down by the Supreme Court, the writ petition filed by the petitioner is meritless and stands dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

16.01.2020

Manoj Bhutani

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