

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

I.

**CWP-12534-2018 (O&M)
Date of decision: 28.5.2020**

M/s STJ Developers

... Petitioner (s)

Versus

State of Punjab and others

... Respondents

II.

CWP-27170-2018 (O&M)

M/s STJ Developers

... Petitioner (s)

Versus

State of Punjab and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present: Mr. Ashwani Kumar Chopra, Sr. Advocate, with
Mr. Akshit Chaudhary, Advocate,
for the petitioner (s).

Mr. Amandeep Singh Talwar, Advocate,
for the applicant-respondent No.4 in
CM-7163-CWP-2019 and CM-7164-CWP-2019.

Mr. Sahil Sharma, DAG, Punjab.

Mr. Rupinder S. Khosla, Sr. Advocate, with
Mr. Raj Partap Singh Brar, Advocate,
for respondent No.2-GMADA.

KARAMJIT SINGH, J.

This order shall dispose of the above captioned two writ
petitions involving the same question of fact and law. By way of CWP-
12534 of 2018, the petitioner seeks to invoke the jurisdiction of this Court

under Article 226 of the Constitution of India to quash impugned order

dated 10.4.2018 (Annexure P-9), further seeking writ in the nature of mandamus directing respondent No.2 to accept the financial bid submitted by the petitioner and for issuance of writ in the nature of prohibition, restraining respondent No.2 from conducting fresh auction in respect of the commercial chunk/mixed land used site measuring 5.1 acres in Sector 62, Mohali.

CWP No.27170 of 2018 is filed by the petitioner under Article 226 of the Constitution of India for issuance of a writ of certiorari quashing e-auction notice dated 10.10.2018 (Annexure P-11) in respect of the aforesaid site and for issuance of a writ in the nature of mandamus directing respondent No.2 to accept 17% of the bid money as first instalment and to issue allotment letter regarding the aforesaid site in favour of the petitioner.

Brief facts of the case are that the petitioner, a partnership firm being fully eligible and having fulfilled the pre-requisite conditions, participated in the online e-auction conducted by respondent No.2 with regard to commercial chunk/mixed land used site measuring 20638.99 square metres (5.1 acres) in Sector 62, Mohali (hereinafter called as, "site") against the reserved price of ₹ 1,59,44,03,255/-. The petitioner being interested in the said site, pre-deposited ₹ 3,18,88,065/- being 2% of the total reserved price. The e-auction for the site started from 20.1.2018 and ended on 25.1.2018. The petitioner and other bidders showed their interest in the purchase of the site. The petitioner gave a bid of ₹ 77,262/- per square meter (on basic FAR) against the reserved price of ₹ 77,252/- per square metre (on basic FAR) on 25.1.2018. The total bid given by the petitioner was ₹ 1,59,46,10,418/- while the reserved price was ₹ 1,59,44,03,255/-.

15 bids were received against the total 22 sites which were put to auction by respondent No.1 and out of the said 15 bids, 12 were accepted and three bids were rejected being single bid which also included the bid of the petitioner. On this, the petitioner approached respondent No.2 to know the exact status of its bid but could not get any satisfactory response. Then on 7.2.2018, the amount of ₹ 3,18,88,065/- was refunded by respondent No.2 to the petitioner by way of NEFT. The said unilateral decision of the respondents was per se illegal. The action of the respondents in not accepting the final bid of the petitioner and simultaneously contemplating to invite fresh bids by re-auction apart from being unilateral, arbitrary and illegal was also malafide. The petitioner filed CWP-3633-2018 challenging the above said action of the respondents but the same was disposed of with direction that in case the petitioner files representation, the same shall be decided by respondent No.2 by passing a speaking order after affording an opportunity of hearing to it. On this, respondent No.2 passed impugned order dated 10.4.2018 which is also illegal being cryptic and non-speaking. In the meantime, the respondents issued fresh e-auction notice dated 10.10.2018 regarding the site. Said notice has been challenged by the petitioner in CWP-27170-2018.

On notice of motion, concerned Estate Officer (Auction) of GMADA filed affidavit in CWP-12534-2018. CWP-27170-2018 was also ordered to be heard along with CWP-12534-2018.

We have heard counsel for the parties.

Counsel for the petitioner contended that tender of the petitioner was rejected illegally and arbitrarily by respondent No.2 just on

the sole ground that he was the sole bidder. The offer given by the petitioner

was highest and was technically feasible being much above the reserved price. So, the bid of the petitioner deserves to be accepted. Consequently, the proceedings of re-auction are to be set aside and cancelled. To strengthen his contention, counsel for the petitioner referred to **Bharat Hotels Limited, New Delhi v. State of Haryana and another**; 2009 (1) RCR (Civil) 398 wherein it was observed that once bid was opened, same could not be rejected on the ground that there is no competition, it being a single bid. Reference is also made to **M/s R.R. Company v. State of Bihar through the Chief Secretary, Government of Bihar**, 2017 (1) PLJR 202 (Patna) wherein it was held that tender cannot be rejected on the ground that only the petitioner was the sole bidder.

On the other hand, counsel for the contesting respondent contends that a highest bidder has no right to compel the authority to accept his bid and confirm the sale in his favour. The Government can refuse to accept the highest bid or direct re-auction in public interest. It is further contended that in the present case, the tender process was cancelled on account of lack of competition. Said action of the respondents being taken in the interest of the State does not warrant interference by this Court. In support of his arguments, counsel for the respondents refers to **State of Haryana and others v. Kundan Lal and others**; 2005 (1) RCR (Civil) 381.

We have considered the submissions made by the counsel for the parties.

It is clear that opportunity of hearing was given to the petitioner through its director, before the impugned order (Annexure P-9) was passed

clarified that clause 8.5 of the terms and conditions of the auction, empowered the Chief Administrator or any other officer authorised by him to accept or reject the highest bid without assigning any reason, even if the bid is higher than the reserved price. From the perusal of order Annexure P-9, it also transpires that a policy decision was taken in the meeting held on 24.10.2017 under the Chairmanship of Additional Chief Secretary, Housing and Urban Development Department, to the effect that if in case of e-auction, only one single bid was been received, the authority has got power to withhold the said auction and to issue fresh advertisement for re-auction.

In the present writ petition, only single bid of the petitioner was received, meaning thereby that there was no competition. So, the respondents rightly made decision to re-auction the site in public interest. Accordingly, e-auction notice (Annexure P-11) to re-auction the site was issued by GMADA. As per the affidavit submitted by the Estate Officer (Auction), GMADA, the site was put to re-auction from 10.10.2018 to 30.10.2018 at the reserved price of ₹ 81,115/- per square metre and M/s Icon Group gave highest bid of ₹ 98,535/- per square metre and in total, 9 bidders participated in the said re-auction and if the highest bid given in re-auction is not accepted, GMADA would suffer financial loss of ₹ 43,90,33,527/-.

The citations referred by the counsel for the petitioner are not relevant, being not applicable to the facts of the present writ petitions.

In the light of the aforesaid, we are of the view that there is no illegality in the impugned order (Annexure P-9). The amount deposited by the petitioner was refunded to it on 7.2.2018. The petitioner had not

25.10.2018. So, he has no right to challenge the said re-auction. In the wake of the above, we are of the view that no ground is made out for this Court to interfere in both the writ petitions. Consequently, both the writ petitions are dismissed.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

May 28, 2020
Paritosh Kumar

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