

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

CWP-1618-2021 (O&M)
Date of decision:- 25.01.2021

Varinder Kumar

...Petitioner (s)

Versus

State of Punjab and others

...Respondent(s)

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

Present: Mr. Sunny K. Singla, Advocate,
for the petitioner.

Ms. Monica Chhibber Sharma, Senior Deputy Advocate General, Punjab.

(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 has filed this petition being aggrieved by the orders dated 25.09.2020 (Annexure P-8) and 15.10.2020 (Annexure P-9) passed by the first appellate authority - Director, Department of Food, Civil Supplies and Consumer Affairs, Punjab and the second appellate authority – Principal Secretary, Food Civil Supplies and Consumer Affairs, Punjab dismissing the appeals filed by the petitioner against the rejection of his tender for labour and cartage work for Amargarh – 1 & 2, Bhawanigarh – 2, 3 & 4, Dirba – 2 & 3, Sherpur – 2 as well as Sangrur – 1, 2, 4, 5 & 6 clusters for the year 2020-2021.

From a perusal of the impugned orders passed by the first and the second appellate authorities, it is evident that the authorities have dismissed the appeals filed by the petitioner mainly on two grounds. Firstly, the petitioner/tenderer had himself withdrawn his bid on account of non-availability of labour for Sangrur 1, 2, 4, 5 and 6 clusters and, therefore, as the petitioner did not possess the requisite labour force as per policy for few clusters, it was not feasible to consider his bid for other clusters in the absence of a separate particular list of labour/workers for each cluster. Secondly, the petitioner had not submitted a separate list of labour/workers for each cluster and had uploaded a common list in violation of clause 5(C) of the policy.

The aforesaid factual aspects on the basis of which the appeals

for the petitioner, however, submits that the bids of the other contractors who had submitted a common list or had not submitted a separate list of clusters have been considered and work has been allotted to them and, therefore, the petitioner has been subjected to discrimination on that count.

The aforesaid argument of the petitioner is, however, rejected in view of the fact that the petitioner did not at any point of time assail the award of the contract to any of the other contractors, nor have they been impleaded as a party. Furthermore, the aforesaid aspects were never taken up or raised or argued by the petitioner before the first appellate authority or the second appellate authority and the petitioner is making such assertions for the first time in the writ petition. In the absence of any challenge to the allotment of tender to the other contractors and in the absence of the petitioner taking up these grounds before the first and the second appellate authorities, such a contention of the petitioner raised for the first time in the writ petition cannot be considered, moreso in the absence of the successful tenderers either being impleaded or the allotment of the work to them being challenged. Moreso, it is observed that the contract has already been worked out for nearly 07 months and only a very short period remains.

In the circumstances, we do not find any merit in the writ petition, which is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

25.01.2021
Amodh

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