

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.9454 of 2021 (O&M)
Date of decision:- 17.08.2021

M/s Poonam Transport CompanyPetitioner
Versus
The Haryana State Federation of Consumers Cooperative Wholesale Stores.
...Respondents

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

Present:- Mr. Gaurav Chopra, Sr. Advocate with
Mr. Anurag Chopra, Advocate, for the petitioner.

Ms. Shubra Singh, 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, CHIEF JUSTICE (oral)

This petition has been filed by the petitioner being aggrieved by the order passed by the respondent-authorities declaring the petitioner to be technically disqualified in terms of para-11 clause (vii) of the Haryana State Federation of Consumers' Cooperative Wholesale Stores Ltd. of the tender enquiry dated 29.12.2021 awarding contract for transportation work for the period 01.04.2021 to 31.03.2022.

Learned senior counsel for the petitioner submits that the petitioner firm has been disqualified under the said clause on account of being black listed by the respondent-authorities. He, however, submits a bare perusal of the alleged order of black listing dated 13.01.2021 (Annexure P-6), makes it abundantly clear that the petitioner has not been black listed but has only been warned not to repeat such act in future with a stipulation that if it does so, the petitioner firm would be black listed and the security shall be forfeited.

Learned senior counsel for the petitioner further submits that the petitioner firm has infact submitted an affidavit identically in similar terms as mentioned in para-11 clause (vii) of the tender notice, a copy of which has been filed alongwith the petition as Annexure P-2, wherein the petitioner has clearly stated that the petitioner firm has neither been prosecuted nor been black listed.

We have perused the order dated 13.01.2021 (Annexure P-6) which is stated to be an order of black listing. From a perusal of the same, it is evident that the authorities have not black listed the petitioner firm. The aforesaid order infact states that the petitioner firm will be imposed a penalty of Rs. 10,000/- and shall not be paid the transportation charges of vehicle No. HR67A-1449 amounting to Rs.5850/- as the tenure of the contract of the petitioner's firm for the year 2019-20 has expired. In addition to the imposition of aforesaid penalty and non-payment of transportation charges, the authorities have issued a warning to the petitioner that in case such act is repeated, the petitioner firm would be black listed and the security deposited by it would be forfeited.

On being confronted with the aforesaid order, learned counsel appearing for the respondents fairly submits that the order dated 13.01.2021 (Annexure P-6) does not black list the petitioner's firm. But penalty was imposed upon the petitioner's firm which includes a sum of Rs.10,000/- and non-payment of transportation charges of vehicle No. HR67-A-1449 of Rs.5850/-. However, she submits that the petitioner was declared to be non-responsive due to furnishing wrong affidavit of penalty for District Panipat.

In the light of the above statement of learned counsel for the respondent as well as the purport and import of the order dated 13.01.2021 (Annexure P-6), we are of the considered opinion that the authorities are

required to re-examine the issue of technical viability of the petitioner’s firm in the light of the order dated 13.01.2021 (Annexure P-6) and thereafter proceed further in the tender proceedings.

The petition filed by the petitioner is accordingly disposed of directing the respondent-authorities to reconsider the issue of technical viability of the petitioner’s firm in terms of para-11 clause-vii of the tender notice and other requirements of the tender. However, in view of the fact that this Court by an interim order had stayed further proceedings in the tender, the said arrangement would continue till the authorities take a decision on the technical viability of the petitioner’s firm in accordance with law.

It is made clear that this order shall not constitute any expression of opinion on the merits of the case of either party.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

17.08.2021
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Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No