

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

CWP-11208-2021 (O&M)
Date of decision:- 01.07.2021

M/s Vimal Advertisers

...Petitioner (s)

Versus

Municipal Corporation, Panchkula and another

...Respondent(s)

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

Present: Mr. Puneet Bali, Senior Advocate,
with Mr. Alok Mittal, Advocate,
and Mr. Arun Gupta, Advocate,
for the petitioner.

Mr. Lokesh Sinhal, Advocate,
for respondent No. 1.

Mr. Aditya Grover, Advocate,
for respondent No. 2.

Mr. Deepak Balyan, Additional Advocate General, Haryana.

(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)

This petition has been filed by the petitioner being aggrieved by an act of respondent No. 1 – Municipal Corporation, Panchkula granting contract to respondent No. 2 for installing intimation boards in all the sectors of Panchkula City, under Panchkula Municipal Corporation PPP Mode pursuant to an 'Expression of Interest' dated 17.03.2021 (Annexure P-2).

Learned senior counsel appearing for the petitioner submits that in accordance with the statutory provisions of the Haryana Municipal Corporation Advertisement Bye-laws, 2018 (Annexure P-1), all boards or Outdoor Media Devices (OMDs) which are used for advertisement have to be allotted only as per the policy of e-tender/e-auction issued by the government from time to time as per bye-law 13. He submits that in the instant case, the contract was awarded to respondent No. 2 by ignoring the statutory procedure. Hence, the same suffers from illegality and deserves to be quashed. He further submits that the work has been awarded to respondent No. 2 at a meager price of ₹ 12 lacs a year, whereas the petitioner is willing to offer ten times more than that amount, in case the boards have to be used and are permitted to be used for advertisement.

Learned counsel appearing for respondent No. 1 as well as respondent No. 2, on advance copy, submit that the petition filed by the petitioner is mis-conceived inasmuch as the petitioner participated in the

process undertaken by respondent No. 1 for awarding the contract through negotiations and after having failed to obtain the contract has now filed this petition and, therefore, it is estopped from doing so. It is further submitted that the contract awarded to respondent No. 2 is for installation of informatory boards and not for Out Door Media Devices and in such circumstances, the contract is not covered by the provisions of bye-laws of 2018 and has rightly been awarded to respondent No. 2 through negotiations pursuant to the ‘Expression of Interest’ published by respondent No. 1 vide Annexure P-2.

Having heard learned counsel for the parties, we specifically asked and put a question to them as to whether the informatory boards to be installed by respondent No. 2 would also be used for advertisement.

Learned counsel appearing for respondent No. 1 as well as respondent No. 2 submit that these boards would be used for advertisement as well as for providing information.

In the circumstances, the terms “advertisement, advertising and Out Door Media Device” have been clearly defined in the bye-laws of 2018 and prima-facie bye-law 13 requires that the contract for display of advertisements can be granted only as per the policy of e-tender/e-auction issued by the government from time to time. Further, there is a provision for filing an appeal by an affected person before the Divisional Commissioner of the Division under bye-law 22.

Mr. Deepak Balyan, learned Additional Advocate General, Haryana submits that in case such an appeal is filed before the concerned Divisional Commissioner, he shall hear and decide the same expeditiously in accordance with law by passing a reasoned order, which shall be communicated accordingly, after giving due opportunity of hearing to all concerned.

Mr. Lokesh Sinhal, learned counsel for respondent No. 1 submits that till the appeal is not decided by the competent authority, the informatory boards shall not be made operational.

For the counsel for the respective parties are ad-idem that the petition be disposed of with liberty to the petitioner to file an appeal in terms of bye-law 22 (ibid), the petition is accordingly disposed of in terms of the statement of learned State counsel as also the learned counsel appearing for the Municipal Corporation, Panchkula.

However, this order shall not constitute an expression of opinion on the merits of the case of any of the parties to the lis.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

01.07.2021
Amodh

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