

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

CWP-13181-2021 (O&M)

Date of decision:-20.07.2021

Charanjeet

...Petitioner(s)

Versus

Food Corporation of India and others

...Respondent(s)

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

Present: Mr. J.S. Jaidka, Advocate,
for the petitioner.

Mr. Sunish Bindlish, Advocate,
for respondent No. 1.

(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 rejection of his technical bid submitted pursuant to the tender notice dated 01.01.2021 (Annexure P-1) issued by the respondent-authorities for Handling and Transport Contractor (HTC) for centre Maloud, District Ludhiana.

The technical bid of the petitioner has been rejected by the respondent-authorities on the ground that his bid is disqualified in view of sub-clause (vi)(a) of clause 23 and clause 24 of Part-D of NIT read conjointly with the sub-clause (f) and sub-clause (g) of clause (8) which are general conditions applicable to all tenderers of the MTF.

The petitioner apparently filed representations dated 15.03.2021 and 16.03.2021 against the rejection of his technical bid which were considered and decided by the authorities concerned vide a detailed order dated 22.03.2021 (Annexure P-10). The respondent-authorities after considering all the submissions of the petitioner found that Micro Small and Medium Enterprises (MSME) certificate on the basis of which he had submitted his tender as an MSME industry was ambiguous. The General Manager, District Industry Centre, S.B.S. Nagar on a query being made by the respondent-authorities on receiving a complaint dated 08.03.2021 from one Sandeep Bhatia had issued two letters/memos i.e. Memo No. 174 dated 05.03.2021 and Memo No. 221 dated 19.03.2021 by which it was informed that no documents related to the

machinery had been presented and on inspection the industry was not found to

exist on the spot. It was also informed that the General Manager, District Industry Centre, S.B.S. Nagar had written a letter to the Director of Industries and Commerce, Government of Punjab recommending immediate cancellation of the certificate issued to the petitioner, if the same was in existence. The concerned authority on the basis of the aforesaid finding regarding the validity of the MSME certificate issued to the petitioner rejected his representations by holding that he was not complying with the necessary/mandatory conditions prescribed in the tender form.

The petitioner has assailed the aforesaid decision of the respondent-authorities on the ground that his industry had in fact applied as an MSME industry and had submitted a representation dated 16.03.2021 on the basis of the letter dated 15.03.2021 issued by the General Manager, District Industries Centre, S.B.S. Nagar in which it was stated that the certificate issued to the petitioner was issued online and it was found to be existing and that it was valid for life time. It is submitted that as the petitioner's MSME certificate was valid for life time, therefore, the respondent-authorities have committed an illegality and perversity in ignoring the said letter of the General Manager, District Industry Centre, S.B.S. Nagar and relied on other subsequent documents.

Per-contra, learned counsel for respondent No.1 submits that during technical evaluation of the bids by the authorities, a complaint dated 08.03.2021 was received against the petitioner that he had obtained Udyam Registration Number i.e. UDYAM-PB-21-0000896 by furnishing fabricated details and false declaration qua his enterprise. And vide memo No. 174 dated 05.03.2021 appended with the complaint, even the General Manager, District Industries Centre, SBS Nagar, had furnished the same information to the Director of Industries and Commerce with a recommendation to cancel the registration number allotted to the petitioner.

Further, in response to the letter issued by the Food Corporation of India, the General Manager, District Industries Centre, vide memo No. 179 dated 09.03.2021 confirmed that memo No. 174 dated 05.03.2021 was issued by his office. Thus, he submits that the objections raised in the complaint dated 08.03.2021 were found to be true. It is submitted that undoubtedly, the petitioner alongwith his representation had submitted a memo No. 194 dated 15.03.2021, alleged to have been issued by the General Manager, District Industries Centre, wherein it was stated that during the checking of Udyam Registration Number from online portal, it was found that the said certificate

was valid for life time. But subsequently, in response to the letter issued by the

Food Corporation of India, to confirm if the enterprise of the petitioner was currently existing or not and status regarding terminal validity of its registration, vide memo No. 221 dated 19.03.2021, the General Manager, District Industries Centre clarified that as per the records/report of the Field Staff, no office was found at the place mentioned in the enterprise Udyam Registration Certificate and no document related to the machinery was presented. Therefore, it is urged for the petitioner had availed the benefits admissible to MSE's i.e. exemption from payment of earnest money deposit and tender documents cost on the basis of fabricated details mentioned in the MSME Registration Certificate, the technical bid of the petitioner was rejected in terms of the tender conditions.

Apparently, what actually forms basis of the order dated 10.03.2021, vide which the petitioner was disqualified during technical evaluation and also the order dated 22.03.2021, whereby even his representation was rejected, are memo No. 174 dated 05.03.2021, memo No. 179 dated 09.03.2021 and memo No. 221 dated 19.03.2021, issued by the General Manager, District Industries Centre, SBS Nagar. However, none of these documents have been placed on record or appended with the petition. Therefore, neither the said documents are under challenge in the petition nor their veracity/validity is questioned in any manner. The plea that petitioner had repeatedly asked the authorities to furnish/supply those documents would not advance his case either. For nothing is indicated as to when and to whom any such request or application was made. Further, for the orders that are being assailed were passed in March, 2021, as informed by learned counsel for the Corporation, the work was assigned to the successful tenderers on 06.04.2021 itself and is being executed. Thus, in the given circumstances, we are choice less but to dismiss the petition and the same is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUNPALLI)
JUDGE

20.07.2021
Amodh/ravinder

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