

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

CWP-14502-2021 (O&M)
Date of decision:- 03.08.2021

Ashok Kumar

...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. Saurav Bhatia, Advocate,
for the petitioner.

Mr. K.K. Gupta, Advocate,
for respondents No. 1 and 2.

(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 a tender notice dated 26.05.2021 as amended vide corrigendum dated 03.06.2021.

Learned counsel for the petitioner submits that his technical bid has been rejected on frivolous grounds, whereas the necessary information, as required by the tender document, has been furnished by him. He submits that in such circumstances, the impugned order/communication dated 19.07.2021 (Annexure P-7) rejecting his technical bid be set aside and the respondent-authorities be directed to consider his financial bid as he submits that he has quoted competitive rates which would benefit the Food Corporation of India.

At this stage, learned counsel appearing for respondents No. 1 and 2, submits that as the document filed by the petitioner itself indicates that his bid is not in the format prescribed under the tender document and that the petitioner has also not submitted the complete balance-sheet for the year 2017-2018 which was a mandatory requirement, in such circumstances, the authorities by the impugned order/communication dated 19.07.2021 (Annexure P-7) have rejected the petitioner's technical bid.

Before we enter into the issue raised by the petitioner, it is pertinent to note that the petitioner was required to file an appeal/representation against the rejection of his technical bid under clause XVIII(c) of the tender document, but the petitioner has not done so and has approached this Court directly without availing of this remedy that was available to him and which would have required and forced the authorities themselves to re-consider the rejection of his technical bid.

Quite apart from the above, as far as the issue raised by the petitioner is concerned, from a bare perusal of the impugned

order/communication dated 19.07.2021 (Annexure P-7) rejecting his technical bid, it is apparent that the defects regarding the documents filed by the petitioner in fact exist. It is also apparent from a perusal of the impugned order/communication that the authorities had issued a corrigendum on 03.06.2021 (Annexure P1) making modification and amendments in the existing Handling and Transport Contract (HTC) which was uploaded on the e-procurement website and the last date for submission of the tender was extended for a week to enable all the tenderers to comply with the amended conditions. It is also apparent from a perusal of the undertakings filed by the petitioner that the same were not in conformity with the modified and amended terms of the MTF. From a perusal of the 3CB audit report under Section 44AB of the Income Tax Act, 1961 in the case of a person referred to in clause (b) of sub-rule (1) of rule 6G filed by the petitioner alongwith the tender form, it is apparent that the relevant pages containing serial Nos. 1 to 12 and 36 to 41 of the said 3CB report for the financial year 2017-2018 are missing and, therefore, the ITR submitted by the petitioner for the financial year 2017-2018 is incomplete and in violation of clause 20 of the NIT. It is further evident from a perusal of the document filed by the petitioner that he has not uploaded schedule Nos. II and III as per the balance-sheet for 31.03.2019 which is in violation of clause 20 of the NIT and MTF Appendix-II 3(a)(vi) and clause No. 8(g) of the tender document.

The aforesaid aspects are apparent from the documents filed by the petitioner itself and the learned counsel for the petitioner fairly concedes this fact.

In the circumstances, we do not find any illegality or infirmity in the order passed by the authorities concerned, nor do we find that the decision to reject the petitioner’s technical bid suffers from any arbitrariness and in such circumstances, the petition filed by the petitioner being meritless is accordingly dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

03.08.2021
Amodh

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