

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Civil Writ Petition No.15197 of 2021

Date of Decision: August 13, 2021

M/s Deepak Flour Mill

..... PETITIONER(S)

VERSUS

The Haryana State Federation of Consumers' Co-operative Wholesale
Stores Limited & another

..... RESPONDENT(S)

. . .

CORAM: **HON'BLE MR. JUSTICE JASWANT SINGH**
 HON'BLE MR. JUSTICE SANT PARKASH

. . .

PRESENT: - Mr. Anurag Chopra, Advocate, for the petitioner.

Mr. Padamkant Dwivedi, Advocate, for respondent No.1.

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Sant Parkash, J

The instant petition has been preferred under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing impugned Tender Summary dated 06.08.2021 (Annexure P-3) whereby technical bid of the petitioner has been rejected pursuant to E-Tender Notice (Annexure P-1) for being appointed as Transporter for transportation work for doorstep delivery of goods and commodities under PDS, non-PDS or other welfare scheme to fair price shops in Sub-Divisions Gurugram and Sohna, and Haily Mandi on the pretext that 'Experience certificate is not valid' without acknowledging the fact that the petitioner firm has more than two years of experience as a transporter which can be clearly substantiated from the experience

certificates dated 08.06.2021 (Annexure P-4) and 10.06.2021 (Annexure P-5) without ascertaining the fact that the petitioner is continuing contractor for District Bhiwani awarded by respondent No.1 – The Haryana State Federation of Consumers’ Co-operative Wholesale Stores Limited for the similar work awarded vide letter dated 22.05.2020 (Annexure P-8) on the strength of experience certificates which have not been considered while rejecting the technical bid.

Prayer has also been made for issuance of a writ in the nature of mandamus, restraining the respondents from finalizing the Transportation Tender for Sub-Divisions Gurugram, Haily Mandi and Sohna (District Gurugram) with respondent No.2 whose financial bid is higher than that quoted by the petitioner which would cause loss to the exchequer if said work is not allotted to the petitioner. Further prayer has also been made for issuing directions to respondent No.1 to decide representation dated 06.08.2021 (Annexure P-14) addressed to respondent No.1 seeking redressal of grievance against the rejection of technical bid of petitioner vide impugned Tender Summary dated 06.08.2021 (Annexure P-3) without assigning any cogent reasons with a further prayer to stay the tender process in question.

While issuing notice of motion on the last date of hearing i.e. 10.08.2021, the following order was passed by this Court:-

“It is contended that the technical bid offered by the petitioner has been rejected by simply stating that experience is not valid without revealing as to how the same is not valid. It is next contended that as per the NIT, no appellate forum is available.

Notice of motion to **respondent No.1 only**, at this stage,
for **13.08.2021**.

Notice re: stay as well.

Mr. Padam Kant Dwivedi, Advocate, puts in appearance on behalf of respondent No.1 and assures the Court that either the representation shall be decided or an undertaking shall be furnished before the Court that tender shall not be finalized till the representation is decided.

Copy of writ petition stands furnished.

To be shown in the urgent list.”

Pursuant to the aforesaid order, an affidavit has been filed by Kulvinder Singh, General Manager (Business), on behalf of respondent No.1 deposing that the representation (dated 06.08.2021) filed by the petitioner has been duly considered and rejected by the competent authority by passing a speaking order dated 12.08.2021 (Annexure R-1, appended with the affidavit).

Faced with the aforesaid situation, learned counsel for the petitioner prays for withdrawal of the petition with liberty to challenge the same before an appropriate authority in accordance with law.

Dismissed as withdrawn with liberty as prayed for.

(Jaswant Singh)
Judge

(Sant Parkash)
Judge

August 13, 2021
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Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No