

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

104

**CWP-24527-2021
Date of decision: 03.12.2021**

RAKESH KUMAR

....Petitioner

Versus

STATE OF HARYANA AND ANOTHER

...Respondents

**CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA
HON'BLE MR. JUSTICE VINOD S. BHARDWAJ**

Present : Mr. Sandeep Sharma, Advocate,
for the petitioner.

TEJINDER SINGH DHINDSA. J. (ORAL)

This case has been taken up through Video Conferencing via Webex facility in the light of Pandemic Covid-19 situation and as per instructions.

As per pleadings on record, the petitioner had participated in an e-auction process conducted by the respondent-HSVP. To be specific a bid had been submitted for a commercial booth No.97-P, Sector 13, Urban Estate Panipat of Rs.33,11,200/- on 27th October, 2021.

Clause 29-A and 29-B of the e-auction policy governing the auction process in question would be relevant to the issue at hand and are reproduced hereunder:-

*'29.A:- In case the highest bid is quoted above reserve price
and the payment of 10% of bid (including already deposited*

amount of EMD) has been made by the Highest Bidder, he/she will be declared as successful bidder by the competent authority. However, in case the highest quoted bid is below reserve price and the Highest Bidder deposited the 10% amount of the quoted bid (including EMD already deposited), the same will be evaluated by the competent committee. The Competent committee may make a counter offer to the highest bidder as it deems fit in the fact and circumstances of the matter. The highest bidder shall be required to deposit the balance amount i.e. 10% of the counter offer minus bid amount within 2 days of making counter offer in order to be declared as successful bidder by the competent committee.

29-B:- The following committees shall be competent to take decision regarding the acceptance/rejection of the highest bid if found to have been quoted below the reserve price:-

<i>Sr. No.</i>	<i>Parameters</i>	<i>Competent Authority for approval</i>	<i>Time Schedule</i>
<i>1</i>	<i>Where the highest bid is below 5% of the reserve price</i>	<i>. Principal Secretary, Town & Country Planning . Chief Administrator HSVP</i>	<i>Within three days from date of auction</i>
<i>2</i>	<i>Where the highest bid is in the range of 5%-20% below the reserve price</i>	<i>.Additional Chief Secretary (Finance) . Principal Secretary, Town & Country Planning . Principal Secretary to Chief Minister . Chief Administrator HSVP</i>	<i>Within seven days from date of auction</i>
<i>3</i>	<i>Where the highest bid is more than 20% below the reserve price</i>	<i>.Sub-Committee of Council of Ministers</i>	<i>Within ten one days from date of auction</i>

Apparently, against a base price indicated to be Rs.15,16,200/- for the booth in question, petitioner was notified as H-1 (highest bidder) with a bid of Rs.33,11,200/-.

The bid has fallen short by 3% of the reserve price determined by the Committee/competent authority under HSVP.

In terms of the auction policy, an email had been sent to the petitioner as regards a counter offer so as to match the reserve price and to make good the shortfall.

The short grievance raised by the petitioner in terms of filing the instant petition is that such email had been forwarded not directly by HSVP but through an outsourced agency. Petitioner being under a *bona fide* impression that such email was a 'spam' did not respond to the same.

Categoric assertion made by counsel for the petitioner is that he is ready and willing to make the counter offer and to make good the shortfall of Rs.77,800/-.

Since an advance copy of the petition had already been served upon the respondents, Mr. P.S. Chauhan, Advocate has entered appearance on behalf of respondent-HSVP.

Mr. P.S. Chauhan, Advocate takes a very fair stand that in case the petitioner approaches the Estate Officer, HSVP Panipat on 06th December 2021, the issue will be resolved favourably, subject to petitioner making the requisite payment of Rs.77,800/- and his bid would be put up for consideration as regards the booth in question before the duly constituted Committee and thereafter a final decision would be taken as per law and in the light of the terms and conditions contained in the auction policy/auction notice.

Writ petition is disposed of.

Needless to mention that HSVP would remain bound by the statement made by Mr. P.S. Chauhan, Advocate as recorded hereinabove.

(TEJINDER SINGH DHINDSA)
JUDGE

(VINOD S. BHARDWAJ)
JUDGE

03.12.2021

S.Sharma(syr)

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*