

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

CM-5230-CWP-2022 in/and
CWP-6755-2022
Date of decision : 20.04.2022

M/s Highlight Associates and ContractorsPetitioner
Versus
State of Haryana and othersRespondents

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

Present: Mr. Himanshu Sapra, Advocate, for the petitioner.
Ms. Tanisha Peshawaria, DAG, Haryana.

RAVI SHANKER JHA, CHIEF JUSTICE (Oral)

CM-5230-CWP-2022

For the reasons stated in the application, duly supported by
an affidavit, the application is allowed.

Amended petition is taken on record.

CWP-6755-2022

The petitioner has filed this petition being aggrieved by
rejection of its technical bid submitted by it pursuant to E-tender notice
dated 11.01.2022 (Annexure P-1) for Mata Mansa Devi Temple and
another E-tender notice of even date (Annexure P-2) for Nada Sahib
Gurudwara.

It is submitted by learned counsel for the petitioner that the
respondent – authorities arbitrarily changed the eligibility criteria after
issuance of the tender notice and thereafter rejected the petitioner's
technical bid, communicating the reasons thereof to the petitioner vide
letter dated 14.03.2022 (Annexure P-13), pursuant to the direction issued
by this Court vide order dated 08.03.2022 (Annexure P-12) passed in
CWP-4448-2022.

Learned counsel for the petitioner submits that the petitioner had submitted the necessary documents, sought for by the authorities, in spite of which its technical bid has been rejected, while evaluating the same, which is contrary to law.

Though the petitioner has leveled general allegations of bias etc., but no specific allegations pin pointing the individuals, against whom the bias is alleged, have been made. Nor such individuals have been arrayed as party to this petition. The petitioner has also not impleaded the successful tenderer, who has been allotted the work.

We have heard learned counsel for the petitioner and perused the letter dated 14.03.2022 issued by the authorities giving reasons for rejection of the petitioner's technical bid :-

***“Subject : Reply for rejection of technical bids for e-tender bearing tender ID-2022-HTC-203358-1 (Tender reference no. HTC-2022/EW-Nada Sahib) & ID 2022-HTC-203382_1 (Tender reference no. HTC-2022/EW-Mansa Devi) published vide E-tender Notice dated 11.01.2022.*”**

Reference: Your letter dated 10.03.2022 (addressed to MD/HTC & copy to CE/HTC & EE/HTC), on the subject.

Please refer to your subject cited letter under reference.

In this connection, your firm's personal and immediate attention is invited to the last para of Condition no. 30 of the approved Tender documents / DNIT of the above works regarding 'Jurisdiction', which depicts & reproduced as under :

“The government reserves the right to modify / relax any of the condition while evaluating the Technical bids. The government / Engineer-Incharge reserves the right to reject any or all technical bids without

assigning any reason under no obligation to inform the manufacturer/agency of the reason of rejection”.

In view of the provision of above condition no. 30 of tender documents, it becomes not necessary to assign the reason of rejection of your technical bids to your firm.

However, in compliance of Hon’ble Punjab & Haryana High Court Orders dt. 08.03.2022, it is clarified that this office vide email dated 09.02.2022 and again vide email no. EE/661-68, dt. 17.02.2022, from all the 8 participating bidders, demanded some documents and clarifications under the provision of approved Condition no.11 and General Condition no. 29, regarding ‘Eligibility Criteria’ as existing in the approved DNIT.

However, it is intimated that before opening of Technical bids, your firm submitted a document of WIPRO Dealership, which was not issued by the company’s authorized person who is even not competent to issue such documents, as confirmed by this office from Mona Rajpurkar (WG01-Wipro) of WIPRO Company through email dt. 14.02.22. Further, the company M/s WIPRO replied to this office through email dt. 15.02.22 with the endorsement to Shri Shalov Pathela, the person who had issued the said documents to your firm.

Secondly, your firm was also not able to submit the copy of documents of ‘Original Equipment Manufacture’ (O.E.M.) as asked through email dt. 09.02.2022 at point no.5. As such, for not fulfilling the Eligibility Criteria by your firm, your technical bids for both the above tenders were rejected by the Corporation. Same conditions also made applicable to other invalid technical bids.”

From a perusal of the aforesaid letter, it is evident that under Condition No. 30 of the tender document, the authorities had the power to modify/relax any condition while evaluating the technical bids and pursuant thereto, vide e-mails dated 09.02.2022 and 17.02.2022, the

authorities asked for certain additional documents from all the eight participating bidders, including the petitioner. The authorities, while evaluating the documents of the petitioner, sought verification and confirmation of a document of WIPRO Dealership. Vide e-mail dated 14.02.2022, the WIPRO Company informed the authorities that the document produced by the petitioner was not issued by an authorised person or a person who was competent to do so. Further, this information was also sent to the person who had issued the said document/certificate to the petitioner. The authorities also found that copy of ‘Original Equipment Manufacture’ (O.E.M.), sought from the petitioner, was also not submitted. The authorities, on account of the aforesaid two defects, have rejected the technical bid of the petitioner.

In the facts and circumstances of the case, we do not find any illegality, arbitrariness or perversity in the decision of the authorities rejecting the technical bid of the petitioner. The order passed by the authorities, being in accordance with law, is upheld.

The petition being meritless is, accordingly, dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

April 20, 2022
ndj

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