

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

108+116

**CWP no.7091 of 2022
Date of Decision:02.06.2022**

Neelam Kumari

..... Petitioner

Versus

**Chief Administrator, Haryana Shehri Vikas Pradhikaran, Panchkula &
another**

..... Respondents

2)

CWP no.9443 of 2022

Karan Kumar Sharma

..... Petitioner

Versus

Haryana Shehri Vikas Pradhikaran, Panchkula & another

..... Respondents

**CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH
HON'BLE MR. JUSTICE LALIT BATRA**

**Present: Mr. Sandeep Singh Sangwan, Advocate,
for the petitioner in CWP-7091 of 2022.**

**Mr. Mandeep Singh Khillan, Advocate,
for the petitioner in CWP-9443 of 2022.**

**Mr. P.S. Chauhan, Advocate,
for the respondent-HSVP.**

AMOL RATTAN SINGH, J. (ORAL)

Vide these petitions, the essential question is as to whether the petitioners in each, being the highest bidders in the respective auctions concerned, for the plots in question, can be denied allotment of the plots on the ground that the bids did not match the price reserved by the respondents even though the said price was not disclosed at the time that the bid was invited or prior to that, in the advertisement itself.

Mr. Chuhan, learned counsel for the respondent HSVP, submits that as per the policy dated 16.06.2020, the reserved price is never disclosed for reasons of confidentiality and to ensure that there is no collusion at any level between the prospective bidders and any officials etc. of the respondent authority itself, or any other persons.

It is also not the case of the petitioners either that a counter offer was not made by the respondents to the petitioners, to match the reserved price, after which the plots in question would be allotted to them.

Learned counsel for the petitioners submit that the counter offers having been made well beyond seven days as are stipulated in the policy for making such counter offers, and in the case of CWP-7091 of 2022 the offer having been made about two months thereafter, it cannot be said to be a valid offer and consequently the bids of the petitioners deserve to be accepted.

We do not find ourselves agreement with that contention, for the reason that, firstly, it is not the case of the petitioners herein that any other person has been allotted the plots in question in the meanwhile or that any other person had been made an offer prior to the counter offer made to the petitioners; and

further, the issue has been dealt with by a co-ordinate Bench of this court in CWP-19447 of 2021 (titled as Dr. Sarika Gautam and others v. HSVP and others, decided on 27.09.2021), wherein in that context, it was held as follows:-

“We are of the considered view that in a case of disposal of public property, the question whether the right of a person who has put in the highest bid in the public auction is to be preferred over the right of the public in ensuring that valuable public assets are not disposed of except for a fair price, public interest ought to prevail. Undoubtedly clause 28 of the E-auction policy obligated the acceptance or rejection of the H1 bid by the competent authority within a period of 7 working days from the date of e-auction. Stipulations of such nature and the question as to whether the same are to be viewed as mandatory or directory would depend upon the intent of the policy maker and the object that is sought to be achieved. We hold that such time frame stipulated in the terms and conditions governing an e-auction was only with the objective to prevent undue delay on the part of the competent authority in taking a final decision. Clause 28 and the time frame of 7 days stipulated therein cannot be permitted to be invoked to propound a theory of a concluded contract in the realm of disposal of public property by the State or State instrumentality in an E-auction process. Holding otherwise would run contrary to public interest.”

As regards the basic issue of the higher bid not being accepted as it did not match the undisclosed reserved price, again we would find no reason to agree with the petitioners in view of the policy as above, to the effect that the reserved price is not disclosed for confidential reasons and to ensure transparency process of allotment via e-auction; and further, even *malafides* cannot be attributed in our opinion, to the respondents, in view of the fact that a counter bid was made

to the petitioners to match the reserved price and therefore the petitioners cannot be heard to say that the rejection of their bids is only to favour any other persons.

At this stage, learned counsel for the petitioner in CWP no.7091 of 2022 submits that given reasonable time the petitioner would be willing to take up the counter offer of the respondents and pay the difference between the highest bid and the reserved price.

Mr. Chauhan on the other hand submits that even if that concession is to be granted to the petitioner as the plot in question has not been thereafter put to any subsequent auction process, it cannot be without interest and that too only if this court is allowing this petition in view of the circumstances.

We find that objection to be fair and therefore upon the petitioner paying the differential between the highest bid offer made by her and the reserved price fixed by the respondents (which is stated to be Rs.1,86,88,800/-), alongwith interest at the rate applied to savings bank accounts in the State Bank of India, running from the date that the counter offer was made till the date of actual payment (positively within one month from today), the plot in question would be allotted to the petitioner (in CWP-7091 of 2022), with all other terms and conditions thereof being as per the auction process.

Since counsel for the petitioner in CWP no.9443 of 2022 is not present in the post lunch session though he was very much present and had addressed arguments in the pre-lunch session, that petition is also disposed of in the same terms, (the reserved price in that case being Rs.1,05,32,900/-).

It is also to be observed that the bids in all such cases were made on a base price settled by the respondent authority, which is not the reserved price; and

we find nothing wrong with the policy in view of the objective to be achieved by it, especially with a counter offer to be first made to the highest bidder.

The petitions are disposed of as directed hereinabove.

A copy of this order be also placed on the file of the other connected matter.

(AMOL RATTAN SINGH)
JUDGE

June 02, 2022
dinesh

(LALIT BATRA)
JUDGE

Whether speaking/reasoned	Yes
Whether Reportable	Yes