

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

CWP-13997-2022 (O&M)
Date of decision:- 30.08.2022

M/s Hooda TPT Co.

...Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

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

Present: Mr. Anurag Chopra, Advocate,
for the petitioner.

Mr. Deepak Balyan, Additional Advocate General, Haryana.

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RAVI SHANKER JHA, C.J. (ORAL)

This writ petition has been filed by the petitioner being aggrieved by a technical evaluation summary report dated 31.03.2022 (Annexure P-5), whereby its technical bid had been rejected on the ground that the solvency certificate furnished by it is not in the name of the firm, namely, Hooda TPT Co.

The brief facts leading to the filing of the present writ petition are that the respondent-authorities issued a tender notice dated 12.03.2022 (Annexure P-1) inviting bids for labour and cartage for the year 2022-2023 under the FCI Guarantee Scheme for various agencies/mandis within District Palwal. The petitioner submitted its tender in the name of Hooda TPT Co. stating that it was a proprietorship firm. In accordance with clause 8(iv) of the tender document, the petitioner was required to furnish a solvency certificate issued in the name of a tenderer by the concerned banker. The petitioner submitted the solvency certificate dated 10.03.2022 issued by the Bank of Baroda in the name of Surender Kumar resident of Village Dayalpur, District Faridabad. During the tender evaluation, the petitioner's bid was rejected on the ground that it had not submitted the solvency certificate as required by clause 8(iv) of the tender document and the technical evaluation summary report dated 31.03.2022 was prepared which is the subject matter of challenge in the present writ petition.

The petitioner had earlier filed CWP-6887-2022 assailing the same technical evaluation summary report dated 31.03.2022 which was disposed of by this Court on a statement made by learned Additional Advocate

General, Haryana, on advance copy, to the effect that a decision on the petitioner's representation dated 31.03.2022 (Annexure P-7) and legal notice of even date (Annexure P-8) shall be taken expeditiously, preferably before finalization of the tender process, by the authorities in accordance with law.

As the authorities did not take any decision on the petitioner's representation as well as legal notice and on the other hand went ahead with the tender proceedings and entered into an agreement dated 05.04.2022 (Annexure P-11) for carrying out the transportation work with private respondent No. 5, namely, M/s M.P. Bombay Transport Co., the petitioner has filed the present writ petition again challenging the same order dated 31.03.2022 rejecting its technical bid. In the meantime, the petitioner had also filed a contempt petition being COCP-789-2022 before this Court alleging that the respondent-authorities did not decide its representation in terms of the direction issued by this Court before proceeding further with the tender process and, therefore, had committed contempt. The said contempt petition is stated to be listed before this Court on 29.09.2022.

The official respondents have now filed reply alongwith an order dated 26.07.2022 (Annexure R-2) passed by the authorities on the petitioner's legal notice/representation. From a perusal of the same, it is evident that the respondent-authorities have decided the petitioner's legal notice/representation and while doing so, they have reiterated their previous decision to the effect that the solvency certificate is not in the name of the tenderer i.e. Hooda Transport Co., but is in the name of Surender Kumar; that the petitioner had applied in the name of Hooda Transport Co. and its proprietor is Surender Kumar, but the affidavits submitted were in the name of Surender Kumar Hooda; that the affidavit is not verified/registered by the stamp vendor and that the credit limit is not in the name of Hooda Transport Co. (Firm).

Learned counsel for the petitioner submits that the other grounds taken up by the respondents for rejecting its technical bid are all dependent on the first ground and in fact do not even exist as necessary stamp and registration by the stamp vendor is already there. He, therefore, submits that the main ground still remains the same i.e. non-furnishing of the solvency certificate issued in the name of the tenderer. He further submits that the petitioner-firm is a sole proprietary firm and, therefore, it does not make any difference whether the solvency certificate is in the name of the sole proprietor

or in the name of the sole proprietary firm as they are the same entity for all practical purposes in carrying on business activities.

We have heard learned counsel for the parties at length.

The relevant clause 8(iv) of the tender document provides that the tenderer has to file documents which includes the solvency certificate issued by the banker. It is admitted and undisputed that the tenderer in the present writ petition is the petitioner i.e. M/s Hooda TPT Co. The solvency certificate, which has been annexed by the petitioner at pages 45, 62, 71 and 88 of the writ petition, clearly indicates that there was no reference to M/s Hooda TPT Co. Nor does the solvency certificate show that Surender Kumar is the sole proprietor of Hooda Transport Co. The solvency certificate is simply bearing the name of Surender Kumar resident of Village Dayalpur, District Faridabad.

In such circumstances, we do not find any fault with the decision of the technical evaluation committee rejecting the petitioner’s technical bid on the ground that the solvency certificate is not in the name of the tenderer as this is an undisputed and admitted fact.

In such circumstances, we do not find any infirmity or illegality in the technical evaluation summary report dated 31.03.2022 (Annexure P-5) rejecting the technical bid of the petitioner.

The writ petition is, accordingly, dismissed.

(RAVI SHANKER JHA)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

30.08.2022
Amodh Sharma

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