

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

CWP-24563-2022

Date of Decision: 27.10.2022

M/s Sandeep Rana

. . . . Petitioner

Vs.

Food Corporation of India and another

. . . Respondents

**CORAM: HON'BLE MR JUSTICE M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE H.S. MADAAN**

Present: - Mr.Gurminder Singh, Sr. Advocate, with
Mr.J.S. Gill, Advocate, for the petitioner.

M.S. RAMACHANDRA RAO, J. (ORAL)

Notice of motion.

Mr.Ashwani Gupta, Advocate, accepts notice on behalf of respondent No.1 and filed his memorandum of appearance today in Court which is taken on record.

Vide tender enquiry dt.17.05.2022, bids were invited for allotment of work of Handling and Transport Contract at Taraori centre connected with Railhead Taraori for a period of two years.

Petitioner participated in the bidding process as a MSE (Micro Small Enterprise) and was declared successful in the auction process. Petitioner was thus declared L-1 in the bidding process, but thereafter the petitioner came to know that labour charges in the said area are much higher than usual and it would not be financially viable for it to discharge the work at rate quoted by it in the said area. It also apprehended that the truck owners were charging heavy amount for providing the trucks for transportation of foodgrains at the said railhead.

Clause 8(e) of the Model Tender Form (MTF) is as under:

8(e) Tender should be uploaded/submitted through GeM portal (URL <https://gem.gov.in>). Hard copy of the tender documents will not be accepted. However the successful tenderer will have to submit the original hard copy of MTF duly signed on each page of MTF along with annexures/appendices duly attested on or before the date & time stipulated by FCI, failing which the EMD furnished by the Bidder is liable to be forfeited and further that the award of the contract through the letter of acceptance will be issued to the successful tenderer only after he fulfills this requirement.”

According to the petitioner, the said clause would come into existence once the successful tenderer had submitted the hard copy of MTF duly signed on each page of MTF along with annexures, but the respondent/FCI allegedly ignored the said clause and awarded the contract to the petitioner for two years vide letter dt.27.07.2022, and the petitioner was asked to submit the duly signed MTF along with annexures within a period of 15 days. According to the petitioner, it did not submit the requisite security, bank guarantee or the signed MTF to the respondent/FCI, but the FCI issued a *show cause notice* on 23.08.2022 for termination of the contract invoking Clause 7(iv) of the MTF and thereafter passed an order on 05.09.2022 terminating the contract awarded to the petitioner and debaring the petitioner from participating in any future tenders for a period of three years. It also informed that it had decided to proceed for appointment of another contractor at risk and cost of the petitioner.

Challenging the said order dt.05.09.2022, petitioner preferred

an appeal dt.03.10.2022 (P9) before the Grievance Redressal Committee of

respondent No.1, which is stated to be pending by counsel for respondent No.1. Petitioner seeks a direction for expeditious disposal of the said appeal and also seeks a stay of the fresh e-auction dt.22.09.2022 whereby the respondents had called for regular tender for appointment of contract for the remaining period of the contract i.e. upto 17.08.2021 at the risk and cost of the petitioner.

Having regard to the facts and circumstances, the Grievance Redressal Committee of respondent No.1 is directed to decide the appeal dt.03.10.2022 on or before 30.11.2022 in accordance with law and communicate its decision to the petitioner. All issues raised by the petitioner in the present petition are left open. No costs.

(M.S. RAMACHANDRA RAO)
JUDGE

(H.S. MADAAN)
JUDGE

27.10.2022

Vivek

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No