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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-32024-2019
Date of decision: 06.05.2022

SOHAM CONSTRUCTION COMPANY

...Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present:- Mr. Vinod Gupta, Advocate and
Mr. Mayank Gupta, Advocate
for the petitioner.

Mr. Pawan Sharda, Sr. DAG, Punjab.

Mr. Harpreet Singh Gharuan, Advocate
for respondent Nos.2 and 3-Municipal Corporation.

JAISHREE THAKUR, J. (Oral)

This is a petition that has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of certiorari for quashing the order dated 11.01.2018 (Annexure P-8), whereby the application for renewal of the licence of the petitioner stands rejected.

Learned counsel for the petitioner herein would contend that the petitioner herein is a Contractor and is doing the work of construction of road, interlocking tiles, pavements, sewerage etc. in different Municipal Corporations and Committees and had been doing the work for the past 20 odd years. The petitioner company was allocated work for the construction of road and interlocking tiles in the area of Hargobind Nagar, which the

petitioner completed as per the instructions of the respondent-Municipal Corporation. As the payment of the work done was not being released, the petitioner filed CWP No.20906 of 2014 before this Court, which was disposed of by giving a direction to the respondents to decide the legal notice of the petitioner by an order dated 05.11.2014. As the order was not complied with, the petitioner filed COCP No.193 of 2015, in which the affidavit of the Superintending Engineer (B&R), Municipal Corporation, Ludhiana, was filed which was found to be false and ultimately he was found guilty of contempt of Court and was fined with Rs.25,000/-, to be paid out of his own pocket. It is thereafter that the petitioner has been blacklisted for a period of two years by a resolution passed on 21.08.2015 (Annexure P-2). The petitioner applied for renewal/enlistment with the Corporation and completed the necessary requirements, however, no action was taken on his application. Thereafter, petitioner approached the Corporation by filing representations, to which there was no response. Eventually, the petitioner received information by impugned order dated 11.01.2018 (Annexure P-8) , wherein the Corporation has refused to enlist the petitioner firm on the grounds of instructions issued by the Government. Aggrieved by the inactions of the respondent-Corporation in renewing the enlistment of the petitioner firm as a Contractor, the instant petition has been filed.

Pursuant to the notice of motion, respondents appeared as back as on 06.12.2019 but reply was not being filed in terms of the order dated 19.04.2022. Reply was to be filed by respondent-Municipal Corporation within a period two weeks, failing which, costs of Rs.10,000/- was to be borne by a person who failed to do so. Learned counsel for respondent-

Municipal Corporation has sought to file reply in Court today, which is not accompanied by the costs as imposed by this Court vide order dated 19.04.2022. Therefore, this Court deems it appropriate not to accept the reply. However, learned counsel for the respondent-Municipal Corporation would urge that the petitioner was a defaulter and did not complete the allocated work in time of laying interlocking tiles with the premix and a resolution was passed debarring the petitioner herein for a period of two years and thereafter, petitioner has not completed the necessary formalities for being enlisted.

I have learned counsel for the parties and have perused the pleadings as available with the Court.

There is no dispute that the petitioner firm stood blacklisted as per Agenda No.113 on account of his failure to complete the work allotted to him within a period of four months. In the said Agenda, it was noted that the Contractor had left work half done of stone work in Hargobind Nagar (Ward No.31) and that the payment has been made to the Contractor for the work done. Blacklisting of the Contractor was done as far back as on 21.08.2015 and the said period of two years has since expired. From the documents available on the record (Annexure P-4), the petitioner has submitted forms and other required documents for renewal of enlistment and had given several representations thereafter, seeking a response to his application for renewal of enlistment. Eventually, he was served with the order dated 11.01.2018, whereby the case of the petitioner of renewal stands rejected relying upon the instructions issued by the Government, which are available on the record as Annexure P-9. A perusal of para-2 of the said instructions of enlistment of Contractors reads as under:

“2. No individual or a firm or a person defined in Rule 7 of Punjab Municipal General Rules, 1979 having as one of the partners, who is a dismissed Government servant; or removed from the approved list of Contractors, or demoted to lower class; or having business banned/suspended by any Government department in the past; or convicted by a Court of law shall be entitled for enlistment.”

A reading of the said clause would clearly reflect that a person or a firm or an individual, who is a dismissed Government servant or removed from the approved list of Contractors or demoted to a lower class or having business banned/suspended by the Government department or convicted by a Court of law, shall not be entitled for enlistment. The reading of the said clause would not be applicable to the petitioner herein who has been blacklisted for a period of two years, which period has since lapsed. There is nothing on the record to establish that the petitioner stands removed from the approved list of Contractors. The impugned order dated 11.01.2018, is thus not sustainable.

Consequently, the present petition is allowed and the impugned order dated 11.01.2018 (Annexure P-8), is set aside. In case the petitioner herein applies afresh, his application would be taken into consideration in case he fulfills all other terms and conditions.

06.05.2022
Chetan Thakur

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No