

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

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2023:PHHC:122772-DB

CM-15029-CWP-2023 in/and

CWP-12733-2022

Date of Decision: 19.09.2023

Ram Pati

.....Petitioner(s)

Versus

State of Haryana and others

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Ved Parkash, Advocate,
for the petitioner.

G.S.SANDHAWALIA, J. (Oral)

CM-15029-CWP-2023

Application has been filed for restoration of the main writ petition which was dismissed for want of prosecution on 18.07.2023.

In view of the reasons given in the application, the same is allowed. The main writ petition is restored to its original number and taken up for hearing today itself.

CWP-12733-2022

1. Challenge in the present writ petition filed under Articles 226 and 227 of the Constitution of India is to the order dated 03.12.2020 (Annexure P-4) wherein the request of the petitioner dated 06.11.2020 and 23.11.2020 (Annexure P-3) for depositing the 10% amount of the plot through challan voucher, which apparently she could not do within the stipulated period due to personal reasons, has been declined.

2. The reasoning given by the respondents is that the amount was to be remitted within a period of 3 days and the petitioner being the highest bidder had to deposit the said amount by 22.10.2020 and on a failure of doing

so, the amount has been forfeited in favour of HSVP. On 02.06.2022, the argument raised as such was that there was a technical glitch and the amount could not be transferred on that date and thereafter the representation was rejected. The co-ordinate Bench had also noticed that this Court had only been approached after 1-1/2 years of such objection while taking up the case for hearing on 02.06.2022 and asking the respondents to file response.

3. In the reply filed, it has been clarified that the participation was done for the e-auction on 19.10.2020 for Plot No.1484, Sector 11, Panchkula and as per the revised e-auction policy dated 16.06.2020 (Annexure P-1/R-1), which is also subject matter of challenge. The amount had to be deposited within the number of days specified depending upon the amount of the total value of the plot in question. The time period to deposit said amount varies from 1 to 4 days as the amount increases. It has been specifically averred that there were no technical glitches or error and other two bidders for the same auction of ID 956 have deposited the respective amounts at the relevant time and the proof of the deposits have been appended as Annexure R-2. It has further been averred that the petitioner had been logging in successfully and it is only an after thought as such and there was no technical problem. The relevant para reads thus:-

“7. That it is further submitted that the technical expert examined the matter and checked the activity history of the petitioner's E-auction user ID, wherein it was found that the petitioner after participating in e-auction on 19.10.2020 and thereafter user ID was sequencly and successfully login on 21.10.2020 at 18:04:47, 22.10.2020 at 15:49:59, 22.10.2020 at 14:19:27, 22.10.2020 at 10:01:25, 21:10:25, 21.10.2020 at 19:00:03, 21.10.2020 at

14:26:57, 19.10.2020 at 19:06:15, from which also clarified that there is no technical problem in depositing the amount as alleged by the petitioner but only an afterthought. Copy of user ID logins history/activities are attached herewith as Annexure R-3.”

4. It has, thus, been averred that the amount has been forfeited as per rules of revised e-auction policy. No replication has been filed to controvert the said averments. A perusal of the terms and conditions of the policy dated 16.06.2020 (Annexure P-1) would go on to show that on account of failure to deposit the amount as specified in the prescribed period, the bid has to be automatically rejected and the amount deposited for participation would stand forfeited in favour of HSVP. Clause 29 reads thus:-

“29. The successful/highest bidder shall be required to remit an amount equivalent to 10% of his/her quoted bid amount (including EMD already deposited) in the following time period:-

<i>Sr. No.</i>	<i>Total value of the bid (Rs.)</i>	<i>No. of working days succeeding the final bid closing day</i>
<i>1.</i>	<i>Rs. 50 lacs</i>	<i>1 (One)</i>
<i>2.</i>	<i>Rs. 50 lacs to Rs. 1 crore</i>	<i>2 (Two)</i>
<i>3.</i>	<i>Rs. 1 crore to Rs. 5 crore</i>	<i>3 (Three)</i>
<i>4.</i>	<i>> Rs. 5 crores</i>	<i>4 (Four)</i>
	<i>—</i>	

The successful bidder has to deposit the amount by way of online payment through Net banking etc. or through RTGS/NEFT by generation of challan on the e-auction portal. The link will be visible only to the Highest Bidder i.e. Of that property. In case of the successful/highest bidder fails to deposit the said amount as specified above, his bid shall stand automatically rejected and the EMD deposited by him for participation in the e-auction shall stand forfeited in favour of

HSVP. No further communication in this regard shall be issued separately.”

5. As noticed above, after the initial amount of Rs.5,91,000/- deposited on the date of bidding, the petitioner apparently, though has relied upon a voucher of Rs.10,48,370/- issued by the bank dated 22.10.2020 (Annexure P-2), but did not represent at any point of time immediately thereafter. It is only on 06.11.2020, the first request was made which also is not in consonance with the plea taken now that there was a technical glitch. Rather the reason is that due to personal reasons, she failed to deposit the amount in time and permission was sought to deposit the same. The alternate prayer was also made to refund the deposited amount while attaching the copy of the challan voucher also.

6. In our considered opinion, it is only an after thought as such that after the amount stood forfeited to take a chance in litigation and try her luck. The petitioner is bound by the terms of the auction having taken part in the same and now she cannot turn around and challenge the terms and conditions and is bound by the principle of estoppel as such.

7. Accordingly, we do not find that any ground is made out to interfere in the order dated 03.12.2020 (Annexure P-4) and the present writ petition stands dismissed.

(G.S. SANDHAWALIA)
JUDGE

19.09.2023
shivani

(HARPREET KAUR JEEWAN)
JUDGE

Whether reasoned/speaking
Whether reportable

Yes
No