

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

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**CWP-13854-2023
Date of Decision: 03.07.2023**

NEW MALWA SALES CORPORATION

... Petitioner

VERSUS

STATE OF PUNJAB AND OTHERS

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Akhil Singh Arora, Advocate
for the petitioner.

VINOD S. BHARDWAJ, J. (ORAL)

The instant petition has been instituted under Articles 226/227 of the Constitution of India, 1950 seeking issuance of a writ in the nature of Mandamus directing the respondents to release the EMD against the order executed by the petitioner alongwith interest @ 12% per annum.

Learned counsel for the petitioner contends that respondent No.3 had floated a tender on their website for the purpose of chemical vide tender ID: 2020_DLG_50914 dated 20.07.2020. The petitioner participated in the bid and also submitted bid documents alongwith EMD. The petitioner succeeded in the bid and was declared L1 in the tender. Thereafter, vide letter No.1362, the respondents placed an order for supply for 290 litres of Cyphenothrin 5%. The petitioner duly executed the order within time and also submitted the GST Invoice No.GST/20-21/0283 to the respondent No.3. The payment qua the same was duly made to the petitioner. However, after completion of the tender, the petitioner submitted a representation dated 19.10.2020 for release of EMD. The

petitioner was assured that the EMD would be release very soon, but the same was not done. The petitioner submitted another representation dated 15.09.2021 to respondent No.3 and once again the petitioner was assured that the EMD would be released at the earliest, but the EMD was not release this time also. At last, the petitioner sent a legal notice dated 30.09.2022 (Annexure P-6) to respondent No.3 calling upon him to release the EMD that has been illegally withheld for the last two years. However, no action has been taken thereupon till date.

Notice of motion.

Ms. Niharika Sharma, AAG, Punjab accepts notice on behalf of respondents No.1 and 2 prays for some time to file response, if any.

Mr. Saurav Verma, Addl. A.G., Punjab, who by virtue of his assignment is also on the panel of all the statutory corporations and bodies of the Government of Punjab, is directed to accept notice on behalf of respondents No.3 and 4. Hence, he accepts notice on behalf of respondents No.3 & 4 and also prays for some time to complete instructions and file response, if any.

Learned counsel for the petitioner, however, submits that at this juncture, he would be satisfied if respondent No.3- Municipal Corporation S.A.S. Nagar, Mohali, Sector 68, Mohali, Punjab through its Commissioner is directed to consider and decide the legal notice dated 30.09.2022 (Annexure P-6) in a time bound manner.

Learned Counsel for the respondents do not oppose the prayer made by the learned counsel for the petitioner.

Accordingly, in view of the above, with the consent of the parties and without commenting anything on the merits of the case, the present petition is disposed of while directing respondent No.3 to consider and decide the legal

notice dated 30.09.2022 (Annexure P-6) by passing a reasoned and speaking order after affording an opportunity of hearing to the respective parties within a period of three months from the date of receipt of certified copy of this order.

Needless to mention that upon considering the said legal notice, if the abovementioned EMD is found to be released in favour of the petitioner, the same shall be released in his favour within a further period of three months.

Petition stands disposed of accordingly.

JULY 03, 2023
rajender

(VINOD S. BHARDWAJ)
JUDGE

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