

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH**CWP-21818-2023****Date of decision:18.10.2023****M/s. Sha Construction Company****....Petitioner****V/s.****State of Punjab and others****...Respondents****CORAM: HON'BLE MS. JUSTICE RITU BAHRI,
ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE NIDHI GUPTA****Present: Mr. Mohinder Pal, Advocate
for the petitioner.************Ritu Bahri, Acting Chief Justice (Oral).**

The petitioner is seeking writ of certiorari for setting aside the order dated 10.05.2021 (Annexure P-12) passed by respondent No. 4 which is against the applicable provisions under Clause 6 and 12.2 of the Bid document and further direction to respondent No. 4 to refund the Earnest Money Deposit amounting to Rs.3,82,954/- alongwith interest @ 12% per annum.

2. The brief facts of the case are that the respondent No.4 on behalf of respondent No.5 invited E-Tenders vide E-Procurement Notice Package No. DWSS-W-DIV54-7750-1 dated 02.12.2020 for the work of "Augmentation of Water Supply Scheme Jeeda, Block and District Bathinda Under PRWSSIP Sub component 1A(ii)/JJM amounting to Rs.198.52 Lakh, consisting the construction of S&S Tank AV. Size 38.56x72.37x3.66 m after dismantling of one side of old S&S Tank and extending the existing

sides, High Level Tank, Filter Bed, RCC Clear Water Tank etc. and mtc, for 3 Months of water supply system and all other work contingent thereto.” The last date for submission of e-tender bid was 04.01.2021. A copy of the Invitations for Bids (IFB) E-Procurement Notice is annexed herewith as Annexure P-2.

3. On 04.01.2021, the petitioner firm had participated in above stated e-tender for the work mentioned therein by depositing a bid security deposit amounting to Rs. 3,82,954/- at the time of submission of bid.

4. The validity period of price quoted by the petitioner firm had been mentioned as bounding within 90 days from the closure date of the bidding, in accordance with Clause 6 of Bid invitation document. The validity of tendered bid was for 90 days only from the date of bid and was to be expired automatically on 03.04.2021.

5. Respondent No.4 on 28.01.2021 opened the tendered bids and upon finding the petitioner firm successful and responsive bidder due to least quoted price allotted the work tender to the present petitioner firm. However, respondent No.5 (Employer) did not notify the award of contract prior to expiration of the bid validity period to the petitioner firm. Therefore, on 05.04.2021, the petitioner on behalf of the petitioner firm appeared before Respondent No.4 in person and submitted before him a letter dated 05.04.2021 with a prayer to refund the Bid Security (Earnest Money Deposit) of Rs.3,82,954/- which had been deposited at the time of submission of tender bid. Several communications were made between the petitioner firm and respondents to refund the Bid Security of Rs.3,82,954/-.

Finally, the petitioner firm has sent legal notice dated 26.07.2023 to the respondents (Annexure P-22) in this regard but no action has been taken so far.

6. Notice of motion.
7. At the asking of the Court, Ms. Anu Pal, Senior Deputy Advocate General, Punjab accepts notice on behalf of respondents No. 1 to 4.
8. Without expressing any opinion on the merits of this case, this petition is being disposed of by giving direction to respondent No. 4 to pass a final speaking order on the legal notice dated 26.07.2023 (Annexure P-22) within a period of four weeks from the date of receipt of certified copy of this order. After passing final speaking order, the respondents will inform this Court.

(RITU BAHRI)
ACTING CHIEF JUSTICE

(NIDHI GUPTA)
JUDGE

18.10.2023
Divyanshi

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