

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP-9319-2024
Date of Decision: 25.04.2024

S.S. Services Providers

....Petitioner

Versus

State of Punjab and Others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN PALLI
CORAM: HON'BLE MR. JUSTICE VIKRAM AGGARWAL

Present: Mr. Ribhav Singla, Advocate
for the petitioner.

Mr. Jastej Singh, D.A.G., Punjab
for respondents No.1 and 2.

Mr. Aayush Arora, Advocate
for respondents No.3 to 5.

VIKRAM AGGARWAL, J.

1. The petitioner claims to be a service provider registered with the Government of India and is stated to be involved in the trade of providing manpower services to various establishments.

2. It is essentially aggrieved of the Technical Evaluation Report dated 14.03.2024 (Annexure P-4) vide which it was held to be technically non-responsive and the order dated 29.03.2024 (Annexure P-8) vide which, in pursuance to directions issued by this Court in **CWP-7070-2024** on 22.03.2024, the respondents again rejected the claim of the petitioner and held it to be technically non-responsive. The petitioner is also aggrieved of the issuance of work order to the private respondents i.e. respondents No.6 and 7.

3. Respondent No.3 floated an e-tender on 16.02.2024 (published on 17.02.2024) (Annexure P-2) for providing services of different categories in various offices of Punjab Mandi Board and Market Committees in the State of

Punjab and Chandigarh.

3.1 The bids were to be submitted w.e.f. 17.02.2024 (02.00 PM) to 11.03.2024 (11.00 AM) and were to be opened on 11.03.2024 (03.00 PM).

3.2 The petitioner participated in the tender process and on 10.03.2024, submitted its bid with all relevant documents (Annexure P-3).

3.3 However, vide order dated 14.03.2024 (Annexure P-4), the technical committee, upon evaluation of the bids, held the petitioner firm to be non-responsive.

3.4 Aggrieved by the aforesaid decision, representation dated 15.03.2024 (Annexure P-5) was submitted. Since no response was received, **CWP-7070-2024** was filed by the petitioner, which was disposed of by this Bench on 22.03.2024 (Annexure P-7) with a direction to the authorities concerned to look into the matter and pass a speaking order.

3.5 In compliance of the directions of this Court, respondent No.3 passed order dated 29.03.2024 (Annexure P-8) again rejecting the claim of the petitioner.

3.6 It has been averred that the petitioner had duly submitted all documents except for the data for the financial year 2023-2024 as the financial year was duly in progress. Other documents with regard to deposit of EPF etc. were submitted, but the requisite details concerning EPF and ESI for the months of February and March 2024 could not be submitted since the financial year was in progress.

3.7 It has also been averred that the financial bid submitted by the successful bidders was in fact slightly higher than that submitted by the petitioner.

3.8 Reference in the averments has also been made to certain receipts generated by the Employee's Provident Fund Organization (EPFO) evidencing inspection up to January 2024 (Annexure P-9).

3.9 It has also been averred that the manpower with respondents No.6

and 7 is less than that with the petitioner since the petitioner has 1178 persons whereas respondents No.6 and 7 have much less manpower and failed to satisfy the threshold limit of 950 persons.

3.10 The petitioner, therefore, seeks quashing of the orders vide which the petitioner has been declared to be technically non-responsive and the work has been awarded to respondents No.6 and 7.

4. We have heard learned counsel for the petitioner as also learned counsel representing the respondents, who caused appearance on advance notice having been served.

5. Learned counsel for the petitioner has strenuously urged that he had all the requisite documents barring a few documents which were not available with him on account of the financial year being in progress and he had also sought time from the Committee to furnish the said documents, but no time was granted. Learned counsel has referred to Clause 2 (g) of the Standard Bidding Document (Annexure P-2) and the documents submitted by him alongwith his bid. Specific reference has been made to the documents from page 86 onwards. Learned counsel has submitted that it was mentioned in Clause 2 (g) that the 'pay roles' were to be submitted instead of 'pay rolls' and, therefore, the petitioner gave the experience certificate and the details of the manpower. The deduction of EPF and ESI alongwith inception reports till January 2024 were submitted as the details of the subsequent period were not available on account of the financial year being in progress. Learned counsel made strenuous efforts to convince the Court that he has been wrongly non-suited and that the impugned order now passed in pursuance to the directions issued by this Court is also cryptic and, therefore, deserves to be set aside.

6. Learned counsel for the respondents on the other hand submitted that the orders are legal and valid and call for no interference.

7. Having considered the submissions made by learned counsel for the parties, we find the submissions made by learned counsel for the petitioner to be devoid of merit. The Standard Bidding Document (Annexure P-2) contains Clause 2 (g) which lays down as under:

“The bidder must provide pay roles of the working manpower and deduction of ESI and EPF along with inception reports of financial year 2023-2024.”

There is no provision in the standard bidding document providing for any time to be granted to the bidders for completing any incomplete documents. As per Clause 2 (g), the bidder was to provide the ‘pay rolls’ of the working manpower and deduction of ESI and EPF alongwith the inception reports of financial year 2023-2024. As per the own case of the petitioner, he did not provide the ‘pay rolls’ for the petitioner misread the provision and provided the experience certificates on account of the alleged spelling error. This, however, would not be a ground for the petitioner to even suggest that it was not aware as to what ‘pay rolls’ are. If the petitioner had adequate manpower, nothing prevented it from submitting the ‘pay rolls’ as had been demanded in the bid conditions and if there was some confusion, a clarification could have been sought before submitting the bid. Not only this, even the inception reports etc. were not complete. The petitioner was, therefore, rightly held to be technically non-responsive vide order dated 14.03.2024 (Annexure P-4). Subsequently, in pursuance of directions issued by this Court on 22.03.2024 in **CWP-7070-2024**, order dated 29.03.2024 (Annexure P-8) was passed , which also mentions that the documents were incomplete. It has also been noticed in the said order that the partner of the petitioner firm had appeared before the authority and had stated that he be granted one opportunity to provide the documents which had been found short. This, itself, shows that the documents submitted by the petitioner were incomplete. The

authorities, therefore, did not commit any error in holding the petitioner and one other participant to be technically non-responsive.

8. It is well settled that the authority calling the tender is the best judge as regards the conditions prescribed in the tender as was held by the Supreme Court of India in the case of *‘Monarch Infrastructure (P) Ltd. Vs. Commissioner, Ulhasnagar Municipal Corporation and others’ (2000) 5 SCC 287*. It is also well settled that the scope of interference in tender or contractual matters is very limited though exercise of power of judicial review is not completely barred especially where essential conditions mentioned in the tender documents are not adhered to. Reference may be made to the judgment of Supreme Court of India in the case of *‘Tata Cellular Vs. Union of India’, (1994) (6) SCC 651*.

Keeping in view the facts and circumstances noticed above as also the settled position of law, we do not find any merit in the present writ petition and the same is accordingly dismissed.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

25.04.2024
Prince Chawla

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