

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.16003 of 2021 (O&M)

Date of Decision :08.01.2024

Ashok Kumar

.....Petitioner

Versus

State of Punjab and others

..... Respondents

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

Present : Mr. Saurabh Arora, Advocate for the petitioner.

Mr. Navdeep Chhabra, Sr. DAG, Punjab.

Ms. Swati Dayalan, Advocate for respondent No.2.

Mr. N.S.Vashist, Advocate for respondent No.3.

ARUN PALLI, J. (Oral):

The petitioner herein has prayed for the following substantive relief:-

“Civil Writ Petition under Articles 226/227 of the Constitution of India, 1950 praying for issuance of:-

A writ in the nature of mandamus directing the respondents to accept the 10% of the total bid amount after adjusting the eligibility fee plus 2% cancer cess extra of the total bid amount in terms of clause 3.1 of the terms and conditions (Annexure P-2) the petitioner being the highest bidder of Flat No.1863, 2nd Floor, MIG Category measuring 760 Sq.Ft/17.63 Sq. Mtr in the Co-operative Complex, Sector 64, Phase-10, SAS Nagar, Mohali.

A writ in the nature of mandamus directing the respondents to accept the balance payment of 15% and 75% in terms of clause 4.1 and 4.2 of the terms and conditions (Annexure P-2) after accepting the 10% total bid amount plus 2% cancer cess extra of the total bid amount in terms of clause 3.1 of the terms and conditions.

A writ in the nature of mandamus directing the respondents to pass a speaking order in a specific time frame

on the legal notice dated 09.08.2021 (Annexure P-8) after giving an opportunity of hearing to the petitioner and in the meantime Flat No.1863, 2nd Floor, MIG Category measuring 760 Sq.Ft / 17.63 Sq.Mtr in the Co-operative Complex, Sector 64, Phase-10, SAS Nagar, Mohali be kept reserved for the petitioner in the interest of justice.

It is further prayed that during the pendency of the present writ petition, respondents may kindly be directed to accept the cheque No.436615 dated 13.08.2021 of Rs.1.72 lacs and get the same encashed to make good the payment of total 10% of the bid amount and 2% cancer cess in terms of clause 3.1 of the terms and conditions (Annexure P-2) and / Or in the alternatively reserve the Flat No.1863, 2nd Floor, MIG Category measuring 760 Sq.Ft / 17.63 Sq.Mtr in the Co-operative Complex, Sector 64, Phase-10, SAS Nagar, Mohali for the petitioner in the interest of justice”

Though separate written statements have been filed on behalf of respondents No.2 and 3. And, after we have heard the matter at some length, learned counsel for the contesting respondent No.3 submits that since the petitioner has also prayed for a mandamus requiring the respondents to pass a speaking order qua his concerns/grievances, as set out in the legal notice dated 09.08.2021 (Annexure P-8), it would be expedient, if the petition is disposed of to enable the respondent No.3 to re-examine the matter in the right earnest and pass the necessary orders in accordance with law. He submits that before any such orders are passed the petitioner would also be afforded an opportunity of hearing. Additionally, he submits that clause 7.4 of the e-auction notice (P1) postulates a dispute resolution mechanism which the petitioner is at liberty to explore. Further, the petitioner shall be at liberty to supplement/support his claim by furnishing any fresh/additional material, provided it is submitted within a week from today.

Learned counsel for the petitioner is agreeable to the course suggested by learned counsel for respondent No.3. However, he further submits that as a considerable time has elapsed, while pursuing the present *lis*, respondent No.3 be directed to consider and decide the matter within a specified time.

In response, learned counsel for respondent No.3 submits that the necessary orders shall be passed within 8 weeks from today and communicated to the petitioner.

Accordingly, and without prejudice to the rights/interest of the parties and their respective pleadings before this Court, the petition is accordingly disposed of, in terms of the statement made by learned counsel for the parties.

This Court is sanguine that the competent authority would consider the claim of the petitioner in the right earnest. And the appropriate orders shall be passed within the time indicated by learned counsel for respondent No.3.

Needless to assert that this order shall not constitute an expression of opinion on the merits of the case of either party, for, as indicated above, the authority shall examine the grievance of the petitioner, strictly in accordance with law.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

08.01.2024
Manoj Bhutani

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