

CWP-14979-2024

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

CWP-14979-2024Date of decision: 05.07.2024

M/s Punjab Construction Company

....Petitioner

Versus

State of Punjab and others

....Respondents

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

Present: Mr. Vipin Mahajan, Advocate, and
Ms. Chandanpreet Kaur Ahluwalia, Advocate,
for the petitioner.

Mr. Vipin Pal Yadav, Additional Advocate General, Punjab.

Mr. R.K. Girdhar, Advocate,
for respondent No.5.

ARUN PALLI, J. (Oral)

A Certiorari is prayed for, to quash the order dated 26.06.2024 (P-10), passed by Chief Soil Conservator, Punjab, as also the order dated 27.06.2024 (P-11), passed by the Divisional Soil Conservation Officer, Gurdaspur (respondent No.4).

Learned counsel for the petitioner submits that pursuant to the technical evaluation by the competent authority, respondent No.5 (Dinesh Kumar) and two other bidders, including the petitioner, were held technically compliant. Whereafter, upon opening the price bids, petitioner was adjudged L1 and respondent No.5 was declared L2. Aggrieved by the said decision of the Department Tender Committee (DTC), respondent No.5 approached this Court, vide CWP-7404-2024, to quash the decision of the authorities declaring the petitioner responsive/compliant, for it failed to meet the requisite criteria and lacked the experience, in terms of clause 20(ii) of the tender document. He further submits, for the legal notice dated 23.03.2024, the respondent authorities were alleged to have been served with by respondent No.5



was still pending, learned State counsel submitted that authorities would examine the matter and pass necessary orders. Accordingly, the petition was disposed of, vide order dated 02.04.2024 (P-6). And vide impugned order dated 27.06.2024 (P-11), the respondent authorities, in compliance to the order of this Court, referred to above, concluded for the petitioner did not possess the requisite experience, per clause 20 (ii), therefore, its technical bid ought not to have been accepted. Further, vide order dated 26.06.2024 (P-10), which is also being assailed in the petition at hand, the authorities have even scrapped/cancelled the tender.

It is submitted that post order dated 02.04.2024 (*ibid*), the authorities were served with a legal notice dated 21.04.2024 (P-8), by the petitioner. And, per the detailed averments set out in paragraph 8 thereof, it was demonstrated that the petitioner, in fact, fulfilled the eligibility criteria and possessed the requisite experience, in terms of clause 20(ii) of the tender document. In response, vide a communication dated 02.05.2024 (P-9) [at page 42 of the paper book], the Chief Soil Conservation Officer (Engineer), wrote to the Divisional Soil Conservation Officer, Gurdaspur, that a copy of the said legal notice was being forwarded and a reply thereto be submitted and the Head Office may be informed about the action taken. However, he submits that neither the petitioner received any such response, nor was it heard by the authorities, before passing the impugned order vide which, it was declared non-compliant. He submits that on an earlier occasion, the DTC, consisting of seven members, had evaluated the technical bid submitted by the petitioner and found it responsive. Therefore, in the given circumstances, before passing any such order, the authorities were obliged to, at least, hear the petitioner and afford an opportunity to exhibit that it actually fulfilled the eligibility criteria. In any case, he submits that since the petitioner, in its legal notice, demonstrated that it possessed the requisite experience, the authorities were required to consider the claim of the petitioner. Thus, he submits that apparently, the impugned order dated 27.06.2024 has been passed by the authorities for an oblique purpose and for extraneous considerations. Likewise, with reference to the impugned order dated 26.06.2024 (P-10), he asserts that, *ex facie*, the same is bereft of any reasons, as nothing is indicated, as to



how, the authorities were impelled to scrap/cancel the tendering process. And, since, immediately after the impugned orders were passed, the Department issued a fresh Notice Inviting Tender dated 27.06.2024 (P-12), the said process is also being assailed in this petition.

Faced with this, learned Additional Advocate General, Punjab, on instructions from Gurvinder Singh Gill, Divisional Soil Conservation Officer, Gurdaspur, concedes that apparently, no reason has been assigned, as to how, the petitioner, who on an earlier occasion was declared responsive and adjudged L1, was found to be non-compliant, vide impugned order dated 27.06.2024 (P-11). He fairly submits that no reason is indicated either in the order dated 26.06.2024 (P-10), whereby, the tendering process was scrapped, though at an advance stage. Therefore, he submits that the competent authority shall pass a fresh order, after examining the eligibility of the petitioner, in terms of the relevant clauses of tender document, as also whether it possessed the requisite experience, in terms of clause 20(ii). Further, before any such orders are passed, all the stakeholders, including the petitioner, shall be heard, for which a formal communication shall be issued, well in advance. And, considering the urgency involved in the matter, he submits that the necessary orders, in accordance with law, shall be passed within a week from today.

Likewise, even learned counsel for respondent No.5 fairly concedes that in the given circumstances, no such orders could be passed by the authorities without hearing the petitioner.

Therefore, learned State counsel submits that the impugned order dated 27.06.2024 (P-11), be deemed to have been withdrawn/recalled. And, till the formal orders, as indicated above, are passed, the process that has been initiated, pursuant to a fresh NIT (P-12), shall not be proceeded with any further. Similarly, the petitioner shall also be communicated the reasons, as to what impelled the authorities to scrap the earlier tender.

Learned counsel for the petitioner is in agreement with the course suggested by learned State counsel and submits that let this petition be disposed of, in terms of the statement made by him.



In the wake of the position sketched out above and in terms of the statements made by learned counsel for the parties, the petition is accordingly disposed of.

This Court is sanguine that the authorities shall look into the matter in the right earnest. And the appropriate orders shall be passed within the time indicated by learned State counsel.

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

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

05.07.2024
Ak Sharma

Whether speaking/reasoned	Yes
Whether reportable	Yes/No