



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.W.P. No. 21835 of 2024

Date of decision: 03.09.2024

A.T. Constructions

.... Petitioner

Vs.

State of Haryana and others

.... Respondents

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

Present: Mr. Ankit Chahal, Advocate, for the petitioner.

ARUN PALLI, J (Oral)

The petitioner (A.T. Constructions), had even earlier approached this Court vide CWP No. 14343 of 2024, centered upon the same cause of action, which was disposed of on July 17, 2024:

“Vide e-tender notice dated 31.01.2024, Irrigation and Water Resources Department invited bids for construction of Road from Gadhouli to Saidhupur, including Bridge on Markanda River in Ambala District.

Learned counsel for the petitioner submits that in all, there were 6 participants including the petitioner as also respondent No.5, who submitted their respective bids. It is submitted that upon technical evaluation, 4 of the 6, participants, including petitioner and respondent No.5, were found to be technically compliant/responsive. Further, he submits that Vijay Kumar, who was declared ineligible, represented to the respondents-authority, upon which, the matter was re-examined. However, vide order dated 04.03.2024 (P2), the authority reiterated its decision and his representation was accordingly rejected. It is not disputed that the price bid has since been opened and evaluated and respondent No.5 has been adjudged L-I. He submits that apparently Narinder Singh (respondent No.5) does not meet the requirement of clause 4.5 (qualification criteria), and thus, the decision of the authority to declare him responsive



was apparently erroneous. It is submitted that prior to the institution of this petition, the petitioner had even served the respondents-authority with a representation dated 15.03.2024 (P5), demonstrating, as to how, respondent No.5 lacks the requisite experience, in terms of the tender conditions. Not just that, with reference to the order dated 04.03.2024 (P2), referred to above, he asserts that since Vijay Kumar also lacked the similar experience, he was declared non-compliant and vide a detailed order dated 04.03.2024 (P2), his representation was rejected. That being so, he submits that in the given circumstances, there was no occasion for the respondents-authority, to still hold Narinder Singh to be responsive.

Served with the advance copy of the petition, Mr. Ankur Mittal, Advocate, is present in Court for respondents No.1 to 4. On instructions, he submits that pursuant to the representations/notices that have been submitted by the petitioner, the matter is under active consideration of the competent authority and a decision in this regard is likely to be reached in the immediate future. Therefore, he submits that it would be expedient, if the petition is disposed of, at this stage, to enable the respondents-authority to pass appropriate orders, in accordance with law, dealing with the concerns/grievances of the petitioner as sought to be raised in the petition. Further, he submits that before any such orders are passed, the petitioner shall be heard. And a formal communication in this regard would also be issued to it.

That being so, learned counsel for the petitioner submits that let the petition be disposed of in terms of the statement made by learned counsel for respondents No.1 to 4. However, he submits that as the tendering process is at an advance stage, there is every possibility that a formal contract would be assigned to respondent No.5. And once that is so, the rights/interest of the petitioner would be severely impaired.



To this, learned counsel for respondents No.1 to 4 submits that before any decision is arrived at on the representation submitted by the petitioner, the tender proceedings would not be finalized.

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

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.”

Learned counsel for the petitioner submits that in compliance to the order, referred to above, the respondent authorities examined the concerns/grievances of the petitioner and passed the impugned order dated August 16, 2024. And, a bare analysis of the conclusion, that has been reached in this regard, would show that the same is bereft of any reasons and the grounds raised by the petitioner to demonstrate as to how the private respondent, in terms of the tender conditions, was apparently non-responsive/non-compliant, have not been dealt with.

Served with the advance copy of the petition, Mr. Ankur Mittal, Additional Advocate General, Haryana with Ms. Kushaldeep Kaur, Advocate, is present in Court, on behalf of the respondents No.1 to 6. And, upon instructions from the Additional Chief Secretary, Department of Irrigation and Water Resources, Haryana, fairly submits that the impugned order, is apparently indefensible. Therefore, the same be deemed to have been withdrawn/re-called, for the competent authority, shall pass fresh orders, in accordance with law, assigning reasons in support thereof. Further, he submits that before any such orders are passed, the petitioner, through its authorized representative, shall also be heard. And, a formal communication in this regard will be issued, well in advance. It is submitted that, as undertaken even earlier before this Court, till afresh decision is reached by



the competent authority in this regard, the subject tender/work shall not be awarded to the successful tenderer.

Learned counsel for the petitioner is agreeable to the course suggested by the learned State counsel and submits that let the petition be disposed of in terms of the statement made by him. However, he submits that the matter being time sensitive, the competent authority be directed to consider and finally decide the matter within a specified time.

To this, learned State counsel submits that the necessary orders in this regard shall be passed within four weeks from today.

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

This Court is sanguine that the authority shall consider/examine the matter in the right earnest, and pass appropriate orders, within the time indicated by learned State counsel, assigning reasons in support thereof.

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 earlier, the competent authority shall examine the grievances of the petitioner, strictly in accordance with law.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

03.09.2024
deepak

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