



Skew Each Effective Over Kahnuwan Swamp Drain X-ing Tugalwala Chack Sharif Road at RD 13.05 K.M., District Gurdaspur (Annexure P-2), as per which the date of submission of bid was to start on 07.08.2024. Being eligible, the petitioner submitted its technical bid and financial bid in accordance with the proforma given in the standard bidding document. The completion period was stated to be 6 months and bid security money/earnest money was mentioned as Rs.4.38 lakhs under the general instructions for bidders (Annexure P-3). The petitioner submitted all the documents on 26.08.2024 at 12.23 p.m. within the prescribed time. The last date for submission of bid was, however, extended from 28.08.2024 (wrongly mentioned in Para No.6 of the petition as 28.07.2024) to 02.09.2024 and the date for opening of technical bid was fixed as 03.09.2024.

3. It is the case of the petitioner that only three agencies had submitted their bids, which included the petitioner. The committee constituted for the purpose, however, rejected the technical bid of the petitioner in its proceedings (Annexure P-4) on the ground that the enlistment of the petitioner was of Rs.2 crores, whereas the value of the work was Rs.219.14 lakhs.

4. The case set up by the petitioner is that in the tender document, the value of the work was nowhere mentioned and the tender was to be allotted only on the basis of bidding. It has been averred that once no such value had been mentioned, the bid of the petitioner could not have been rejected. The case of the petitioner is also that the financial bid of the petitioner is less than Rs.2 crores and, therefore, as the petitioner was enlisted for work up to Rs.2 crores, he was duly eligible. The tender



5. Representation dated 04.09.2024 (Annexure P-7), followed by another representation dated 07.09.2024 (Annexure P-8) were submitted by the petitioner but they did not evoke any response.

6. We have heard learned counsel for the petitioner, as also learned counsel representing the respondents, who has caused appearance on advance copy having been supplied to him.

7. Learned counsel for the petitioner submits that the petitioner has been non-suited in an illegal and arbitrary manner. Reference has been made to the notice inviting online bids, wherein security money/earnest money has been mentioned but there is no mention of the cost of the work. Learned counsel has further referred to the impugned order i.e. proceedings of the tender processing committee dated 06.09.2024, wherein, it has been mentioned that the DNIT for an amount of Rs.2,19,14,022/- had been approved and, further, the petitioner has been held to be non-responsive on the ground that enlistment of the petitioner was of Rs.2 crores, whereas the cost of the work is Rs.2,19,14,022/-. Learned counsel has contended that the action of the respondents is completely illegal and arbitrary and they could not have held the petitioner to be technically non-responsive once the value of the work had not been mentioned in the notice inviting tender.

8. *Per contra*, learned counsel representing the respondents has submitted that when the tenders were called and the notice inviting tender was published, it was accompanied by a document dated 05.08.2024 issued by the Superintending Engineer PWD (B&R), Pathankot, in which the cost of the work was duly mentioned as Rs.2,19,14,022/-. It has been contended that under the circumstances, the petitioner cannot contend that the cost of



to Clause 9 of the notice inviting tenders (instructions to bidders), in which it was duly mentioned that if any clarification was required by a prospective bidder, he could notify the Engineer in writing or by fax/e-mail etc. and the Engineer would be required to respond within a period of seven days. It has been submitted that no such clarification was sought by the petitioner and, therefore, the petitioner cannot now agitate the same.

9. Having considered the submissions made by learned counsel for the parties, we find the case of the petitioner to be devoid of merit. No doubt in the notice inviting tenders, the cost of the work was not mentioned and only the earnest money/security money was mentioned. However, it is the positive case of the respondents that when the notice inviting tenders was uploaded on the website, it was accompanied by certain documents, including document dated 05.08.2024 (a copy of which was presented during the course of the hearing and the same has been retained as Mark 'X'), in which cost of the work is mentioned as Rs.2,19,14,022/-. It is not in dispute that the respondents could have and in fact should have mentioned the cost of work also in the notice inviting tenders. However, this in itself, would not imply that the petitioner did not know as to what the cost of work was. It is not understood as to how and on what basis the petitioner gave the financial bid for a work, the value of which, as per the petitioner, was not known to it. It, therefore, means that the petitioner knew the value of the work and accordingly the bids were submitted but on having been held to be technically non-responsive, has knocked the doors of this Court raking up this technical issue, which in fact did not cause any prejudice to the petitioner. Further, in terms of Clause 9.1 of the instructions to bidders, the



do so. In any case, for the reasons aforementioned, we have not found any merit in the case set up by the petitioner.

10. In view of the above, finding the writ petition to be devoid of merit, the same is dismissed.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

September 10, 2024
vcgarg

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