



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.28044 of 2024 (O&M)
Date of Decision: 11.11.2024.

Dhanshree Agro Poly Products
....Petitioner

Versus

State of Punjab and others
....Respondents

AND

CWP No.30398 of 2024

M/s Climax Synthetics Pvt. Ltd
....Petitioner

Versus

State of Punjab and others
....Respondents

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

Present: Mr. Jitender Chaudhary, Advocate,
Mr. Kulwinder Bhargav, Advocate and
Mr. Mandeep Kumar, Advocate
for the petitioner (in CWP No.28044 of 2024).

Mr. Amit Jhanji, Senior Advocate with
Mr. Himanshu Arora, Advocate
for the petitioner (in CWP No.30398 of 2024).

Mr. Gurminder Singh, Advocate General Punjab (Hybrid
Mode) with Mr. Jastej Singh, DAG, Punjab.

Mr. Bhanu Pratap Singh, Advocate
for respondents No.2 and 3.

VIKRAM AGGARWAL, J.

1. For the issue arising in both the afore-title writ petitions is identical, they are being disposed of by a common order. The facts are primarily being derived from CWP No.28044 of 2024.

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2. The petitioner (Dhanshree Agro Poly Products) prays for the issuance of a writ of *certiorari* quashing the Notice Inviting Tender (NIT) (Annexure P-1) issued by the Punjab State Grains Procurement Corporation Limited (PUNGRAIN) (Respondent No.2) for the purchase of Rs.1,20,000/- Multi Layered Cross Laminated Tarpaulins (MLCL Tarpaulins) for storage of paddy during KMS 2024-25 (Kharif Marketing Season) on behalf of all State Procurement Agencies in the State of Punjab under the two bids system.

3. It is the case of the petitioner that previously e-tender dated 30.08.2023 (Annexure P-4) had been floated for purchase of Low-Density Polyethylene (LDPE) Black Tarpaulins. Having remained successful after evaluation of technical and financial bids, purchase order dated 01.12.2023 (Annexure P-5) for five thousand pieces of LDPE was issued to the petitioner. The petitioner manufactured the entire quantity in terms of the requirement of the tender. However, vide order dated 23.12.2023 (Annexure P-8), the tender itself was cancelled.

4. This cancellation of the previous tender was assailed by the petitioner by filing CWP No.709 of 2024. The said writ petition was disposed of on 03.05.2024 along with seven other writ petitions on a statement having been given by learned counsel representing the State of Punjab that the *status quo* order passed on 11.10.2024 would continue. It was stated that the order dated 23.12.2023 be deemed to have been withdrawn/recalled and that a fresh order would be passed after affording notice and hearing to all concerned. Pursuant to said decision, show-cause notice dated 24.05.2024 (Annexure P-10) was issued followed by another

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communicated dated 29.05.2024 (Annexure P-11) to which reply dated 28.05.2024 (Annexure P-12) was also submitted by the petitioner.

5. However, without taking any decision and without passing any fresh order and with a view to frustrate and circumvent the directions issued by this Court, the current Notice Inviting Tender (Annexure P-1) had been issued for the purchase of additional material to cover up the requirement of KMS 2023-24 and KMS 2024-25.

6. Short reply was filed by respondent No.1 in which, in essence, it has been averred that the current NIT is for KMS 2024-25 whereas the previous tender was for the KMS 2023-24. It has been averred that after the issue of work orders pursuant to the previous tender, a complaint was moved to the worthy Chief Minister leveling serious allegations of cartelization as a result of which the further process was halted. Subsequently, cancellation of the tender was ordered citing sufficient availability of covers for KMS 2023-24.

7. It has further been averred that in compliance of the order dated 03.05.2024 (Annexure P-9) passed by this Court in CWP No.105 of 2024 and other connected matters, opportunity of hearing was provided to all bidders and the officials of the Department as also the complainant. Details of the hearing have also been given in the reply. It has been averred that since the matter is complex and involves voluminous record and reports apart from huge involvement of stake-holders, the issue is taking more time and is yet to be finalized. It has also been averred that during the pendency of the inquiry, most of the successful tenders have given in writing that as

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the tender period is over and there is change in the market prices, they would be not in a position to provide the Tarpaulins in pursuance to the work order.

8. It has been averred that as the RMS season (Rabi Marketing Season) was due to start for Wheat Procurement and Storage and there was shortage of Tarpaulins, a policy decision was taken to dispense with the unique specification in future tenders and accordingly a decision was taken to procure LDPE covers for open storage and CLTF covers for covered storage. Accordingly, a new tender for procuring 15400 LDPE covers and 10760 CLTF covers was floated on 15.03.2024. There was limited participation in both these tenders and despite multiple tender rounds having been conducted, nothing could be finalized. However, certain modifications were made and tenderers who were involved in previous inquiries were allowed to participate. As a result supply, orders for 7000 CLTF covers and 1500 LDPE covers were issued and in the sixth round order of 6249 CLTF covers were issued.

9. It has been averred that in light of the procurement season for KMS season 2024-25, new demands were received from the State Procurement Agencies to address the Tarpaulins requirements for KMS 2024-25. Under the circumstances, tender for Rs.1,20,000/- MLCI Tarpaulins was floated. The petitioner, however, did not participate in this process nor did he participate in the tender process for RMS 2024-25. It has been averred that challenge is being laid to the current NIT for ulterior motives. It has been averred that if the petitioner is exonerated in the inquiry pending against him, the delivery of 5000 Tarpaulins would be accepted

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from the petitioner provided the petitioner is willing to deliver the same as per the terms and conditions of that tender.

10. We have heard learned counsel for the parties.

11. Today, at the outset, Mr. Gurminder Singh, learned Advocate General Punjab, has given a statement that if the petitioner is exonerated in the inquiry, the supply of 5000 Tarpaulins for which work order had been issued to him will be accepted provided the petitioner is willing to supply the same as per the rates mentioned in the work order. It has further been submitted that even as regards the present tender for KMS 2024-25, the respondents will issue work orders only after deducting 5000 Tarpaulins from the same so that the same can be procured from the petitioner subject to the conditions stated above. As regards the petitioner in CWP No.30398 of 2024 i.e. M/s Climax Synthetics Private Limited, the learned Advocate General, Punjab submits that even though, this petitioner had submitted in writing that he would not be able to supply the Tarpaulins at the old rates, the State would be willing to make the statement in the same terms as made in the case of M/s Dhanshree Agro Poly Products provided the petitioner is willing to supply the Tarpaulins at the rates mentioned in the work order issued in pursuance to the previous tender. Learned Advocate General further submits that this offer is of course subject to the condition that the petitioners do not lay challenge to the current NIT which has been challenged in the present writ petitions so that the respondents can finalize the same.

12. Learned counsel for the petitioner/s are agreeable to the aforesaid course suggested by learned Advocate General, Punjab and submit

that the writ petitions be disposed of in terms of the aforesaid statement. They further submit that in view of this statement given by learned Advocate General, Punjab, they would not press the instant writ petitions.

13. The writ petitions are accordingly disposed of in terms of the statements given by learned counsel for the parties binding them to the same.

This Court is sanguine that the competent authority shall deal with the matter in accordance with law. However, nothing observed hereinbefore shall be construed to be an opinion on the merits of the case.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

November 11, 2024
Rekha

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