



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

Date of Decision: 21.10.2024

1. CWP-25963-2023 (O&M)

New Malwa Sales Corporation

....Petitioner

Versus

State of Punjab and Others

....Respondents

2. CWP-24970-2023

New Malwa Sales Corporation

....Petitioner

Versus

State of Punjab and Others

....Respondents

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

Present: Mr. Akhil Singh Arora, Advocate for the petitioner.

Mr. Vipin Pal Yadav, Addl. A.G., Punjab.

Mr. Baltej Singh Sidhu, Senior Advocate with
Mr. Parveen Jain, Advocate and
Mr. Divij Datt, Advocate for respondent No.6.

VIKRAM AGGARWAL, J.

1. For the petitioner in both the aforementioned writ petitions is the same and the issue arising for consideration is also largely the same, both the writ petitions are being disposed of by a common judgment. The facts, however, are being derived from *CWP-25963-2023* titled as '*New Malwa Sales Corporation Versus State of Punjab and Others*.

2. The petitioner (New Malwa Sales Corporation) claims to be in the business of wholesale of Insecticides and Pesticides. Pursuant to a tender floated by respondent No.6 (Municipal Council, Zirakpur) for purchase of chemicals on 24.08.2023 (Annexure P-1), the petitioner participated and submitted its bid.

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3. It is the case of the petitioner that the petitioner is the authorized distributor/dealer of the EHD division of M/s Sumitomo Chemicals India Limited in the State of Punjab. It is also its case that respondent No.7 (M/s Jain Agencies) had also been portraying itself as an authorized distributor of M/s Sumitomo Chemicals India Limited EHD division whereas actually it was not.

4. The bids were opened on 26.09.2023 and both the petitioner and respondent No.7 were held to be technically compliant. The petitioner issued a legal notice dated 26.09.2023 (Annexure P-7) to respondent No.6 stating that the bid of respondent No.7 had illegally been accepted and that technically it was not compliant. For, as per the petitioner, the legal notice etc. had evoked no response which was also followed by certain e-mails, the petitioner preferred **CWP-24970-2023** praying for the issuance of a writ of mandamus directing respondent No.6 to declare the bid of respondent No.7 as invalid.

5. During the pendency of the writ petition, for no interim order had been passed in favour of the petitioner, respondent No.6, vide order dated 03.11.2023 (Annexure P-17) awarded the contract to respondent No.7 leading to the filing of **CWP-25963-2023** in which, in addition to the relief prayed for in the previous writ petition which has been prayed for in the instant writ petition also, the petitioner prays for the issuance of a certiorari quashing the award of contract to respondent No.7.

6. Notice of motion in **CWP-24970-2023** was issued on 06.11.2023 but no reply was filed whereas in **CWP-25963-2023**, notice of motion was issued on 20.11.2023. Short reply has been filed on behalf of respondent No.6 as per which work order had been issued to respondent No.7 on 25.10.2023 (Annexure R-6/3). It has further been averred that in terms of the work order, respondent No.7 has already supplied the insecticides and has issued invoice dated 12.12.2023. It has been averred that the work order has already been executed and no financial loss

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has been caused to the answering respondent rather respondent No.7 had quoted the lowest rates due to which respondent No.6 had ended up gaining financially. It has been averred that under the circumstances, the writ petitions have been rendered infructuous.

7. Learned counsel for the petitioner submits that respondent No.7 was not technically compliant but had illegally been declared so by respondent No.6. On a query by the Court as to what now survives in the writ petition apart from the academic issue of respondent No.7 being technically compliant or not in view of the fact that the work order has already been executed, learned counsel for the petitioner has virtually no explanation to offer.

8. Learned Senior counsel for respondent No.6, on the other hand, submits that since the work has already been executed and the insecticides have been supplied, the present writ petitions have been rendered infructuous.

9. In view of the averments made in the short reply submitted by respondent No.6 as noticed in the preceding paragraphs, the writ petitions have been rendered infructuous and are ***disposed of*** as such. However, as regards the question as to whether respondent No.7 was technically compliant or not, the petitioner would be at liberty to pursue the said issue with respondent No.6 and upon doing so, respondent No.6 would take a final call on the issue as expeditiously as possible.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

21.10.2024

Prince Chawla

Whether speaking/reasoned :

Yes/No.

Whether reportable :

Yes/No.