

CWP-21949-2025 (O&M)

2025:PHHC:121125-DB



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

CWP-21949-2025 (O&M)

Date of Decision: September 05, 2025

Ramesh Kumar Contractor

..... Petitioner

Versus

State of Punjab and others

..... Respondents

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present: Mr. Jagdeep Singh Rana, Advocate for the petitioner.

Mr. R.S. Pandher, Addl. AG, Punjab.

LISA GILL, J.

1. Prayer in this writ petition reads as under:-

“i) Civil Writ Petition under Article 226 of the Constitution of India, seeks the issuance of a writ order or direction in the nature of certiorari/mandamus while setting aside the report of impugned committee meeting held on 23.07.2025 and report issued on 24.07.2025 (Annexure P-8) as well as communication dated 28.07.2025 (Annexures P-10), whereby, the Committee constituted by the respondent and the respondent No. 3 has declared the petitioner as ineligible/non responsive for the reason that the petitioner contractor does not qualify the eligibility criteria as laid in DNIT/Tender Document, on the recommendation of Superintending Engineer, Water Supply & Sanitation Circle,

Amritsar, an alien/stranger to the contract and who is not competent to comment upon the certificate issued by the concerned Executive Engineer, Water Supply & Sanitation Division No. 2 Amritsar, as the said finding of the respondents are contrary to their own technical consultant report dated 22.07.2025 whereby the petitioner along with one other contractor was held to be eligible for the work in question; and/or;

ii) Further the operation of the impugned committee report dated 24.07.2025 as well as communication dated 28.07.2025 may kindly be kept in abeyance during the pendency of the present petition and/or;

iii) Further the entire action of the respondents suffer from arbitrariness as the interpretation which is sought to be given is self-styled and not in consonance with the terms and conditions postulated in the Detailed notice inviting tenders (DNIT), and directing the respondents to re-evaluate the petitioner's bid as well as other bidders and consider it afresh on its merits, ensuring a fair and transparent process and the work in pursuance to tender dated 23.04.2025 (Annexure P-1) be kept in abeyance during the pendency of the present petition; and/or

iv) Further issuance of a writ in the nature of mandamus for directing the respondents not to go ahead with the tender process during the pendency of the present writ petition; and/or

v) Further prayer to exempt the petitioner from filing the certified copies of the Annexures with this writ petition and permit the petitioner to file the photocopies of the same.

vi) Issue a writ in the nature of mandamus summoning the records of the case.

vii) Exempt the petitioner from filing the certified copies of Annexures.

viii) Dispense with the prior services of the notice upon the respondents.

ix) Award the cost of the writ petition to the petitioner.”

2. It is pleaded that petitioner is an approved empanelled Contractor of respondent – Department and is executing various works for respondent – Department. Pursuant to issuance of DNIT dated 23.04.2025 (Annexure P1) for ‘Work of Providing and Laying of DI K-7 Rising Main Pipeline from existing Intermediate Pumping Station (IPS) (Model Town) upto Dussehra Ground disposal works and Augmentation of Pumping Machinery at existing IPS (Model Town) at Sri Muktsar Sahib’, petitioner being fully eligible applied for the same. However, respondents rejected technical bid of petitioner and found him non-responsive in an absolutely illegal and arbitrary manner. Present petitioner was found technically non-responsive due to non-fulfilment of ‘similar work’ condition. It is submitted that present petitioner had completed relevant work as required under DNIT and completion certificate dated 04.04.2025 had been duly issued by Executive Engineer, Water Supply and Sanitation Division No. 2, Amritsar. Petitioner had been earlier declared responsive with reference to this completion certificate but as per information received from SE, Amritsar vide letter dated 21.07.2025, it was found by Tender Evaluation, Approval and Acceptance Committee (TEAAC) that said work cannot be treated to be satisfactorily completed work. In view thereof, petitioner was found technically non responsive.

3. Learned counsel for petitioner vehemently argued that course of action adopted by respondents is absolutely illegal and arbitrary. Once Executive Engineer, Water Supply and Sanitation Division No. 2, Amritsar had issued completion certificate in respect to work namely ‘Bifurcation/Augmentation of Drinking Water Supply Scheme, providing sewerage system of villages Budha Theh (MH-FC) and Abadi Guru Nanakpura (OH-FC), Block Rayya, District Amritsar, Punjab’, it was not open for the respondents to thereafter take a stand

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that said certificate has been wrongly issued. Superintending Engineer, it is submitted, could not have taken the stand as reflected in letter dated 21.07.2025. Certificate dated 04.04.2025 could not have been commented upon by Superintending Engineer who is purportedly a stranger to the contract. It was urged that Water Supply and Sanitation Circle, Amritsar is a complete alien to contract and its intervention is clearly uncalled for. It was further contended that once certificate dated 04.04.2025 was issued, there was legitimate expectation of petitioner that his tender would be considered accordingly. State, it was submitted, is expected to act in a fair manner. Completion certificate dated 04.04.2025 specifically mentions that certificate is for tendering only, thus, indicating that it is a valid certificate for the purpose of submission of bids. Moreover, as per Technical Consultant report dated 22.07.2025, petitioner alongwith other contractors had been held eligible for work in question. Thus, declaration of petitioner to be non-responsive, it was submitted, is illegal and totally unjustified. It was, thus, prayed that this writ petition be allowed as prayed for.

4. Learned counsel for State has vehemently opposed the writ petition. It is pointed out that as per record, testing of work in respect to which completion certificate dated 04.04.2025 was issued, was still under process and functionality thereof is entirely dependent upon such testing, therefore, by no stretch of imagination can it be treated to be a work 'satisfactorily completed' at the stage of submission of tenders. It is submitted that technical bids of all participating bidders were subjected to cross verification by TEAAC including verification of certificates from issuing authorities. Bids were referred to Team Leader, Shah Technical Consultant, Chandigarh for independent evaluation. As per report dated 22.07.2025, Consultant found present petitioner and one M/s

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Nem Kumar Bansal to be technically responsive as per eligibility and qualification criteria. Third bidder M/s Dhaliwal Builders was found non-responsive due to failure to meet 'similar work' condition. In the interregnum, it was found that same completion certificate dated 04.04.2025 had been used by petitioner in another tender process under Water Supply and Sanitation Division No. 1, Amritsar and in response to a query from that Division, Executive Engineer who had issued this certificate, clarified vide letter dated 03.07.2025 that testing which is a vital part of work and whole functionality of work depends on it, is still in process and confirmation of satisfactory completion cannot be provided. Keeping in view the same, letter dated 21.07.2025 was addressed by Superintending Engineer, Water Supply and Sanitation Circle, Amritsar to Chief Engineer (North), Punjab, Water Supply and Sanitation Department, Patiala i.e. Chairman of Tender Evaluation, Approval and Acceptance Committee raising serious concerns regarding veracity of completion certificate dated 04.04.2025 issued by Executive Engineer, Water Supply and Sanitation Division No. 2, Amritsar. It is after detailed deliberations on the issue that TEAAC unanimously declared petitioner's technical bid to be non-responsive and excluded him from participation in further tender process, having failed to clear the mandate of Clause 4.3(A) and (c) of Instructions of Bidders. It was further pointed out that Executive Engineer Water Supply and Sanitation Division No. 2, Amritsar is being proceeded against for having issued completion certificate dated 04.04.2025 without ensuring commissioning of work in question and that completion certificate dated 04.04.2025 has since been cancelled on 08.08.2025 by the same Officer who issued the same. It is, thus, prayed that this writ petition be dismissed.

5. We heard learned counsel for parties and have carefully perused the file.

6. Participation of petitioner in tender process pursuant to DNIT dated 23.04.2025 dated (Annexure P1) is a matter of record. As per clause 4.2(A) (c) of Instructions of Bidders, it is specifically provided that all bidders shall attach-

“list of similar works completed during previous years duly supported with performance certificate from authority from whom work has been completed and information shall include name of work, estimated cost, date of start and date of completion”.

7. Clause 4.3(A)(c) of said instructions reads as under:-

4.3 To qualify for award of the contract, each bidder in its name should have

A) For This works

xxx

c) satisfactorily completed in the last five (5) (Financial years i.e. 2019-20, 2020-21, 2021-22, 2022-23 and 2023-24 plus the period of current financial year) ending last day of month previous to the one in which bids are invited as a prime Contractor (or as a nominated sub Contractor, where the subcontract involved execution of all main items of work described in the bid document, provided further that all other qualification criteria are satisfied)

one similar work (as defined in the Bid Data Sheet) of value not less than 80% of the estimated cost of work)

or

two similar works each of value not less than 50% of the estimated cost of work

or

three similar works each of value not less than 40% of the estimated cost of work

[For Lump sum works where estimated cost is not to be disclosed, these amounts should be given in figures]. The values of works can be updated to current price levels by enhancing the value of executed works at the rate given in the BDS;”

8. Petitioner has relied upon completion certificate dated 04.04.2025 to submit that terms and conditions regarding ‘similar work’ stands satisfied. However, it is a matter of record and undeniable that same Executive Engineer who had issued certificate in response to query pertaining to another tender had stated that testing was still in progress and confirmation of satisfactory completion cannot be provided. It is thereafter that a red flag was raised by Superintending Engineer, Water Supply and Sanitation Circle, Amritsar in respect to so-called completion certificate and complete facts thereafter came to light.

9. Argument raised by learned counsel for petitioner that Superintending Engineer being an alien to the contract was nobody to comment upon certificate dated 04.04.2025 is clearly untenable hence rejected. Admittedly, Superintending Engineer of the Department is a superior Officer in administrative hierarchy, entrusted with supervisory responsibility under contractual framework. Action against Executive Engineer, who issued certificate dated 04.04.2025 has been initiated and completion certificate dated 04.04.2025 stands cancelled on 08.08.2025. Plea raised by learned counsel for petitioner that such cancellation by same Executive Engineer is due to pressure and duress, is clearly devoid of any merit. It has come on record that testing and commissioning of sewerage line is still incomplete. Said Officer, himself in response to a query raised regarding the same certificate and work and another

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tender, informed that testing was still in progress. Confirmation of satisfactory completion was not provided. Scheme had not become fully functional.

10. Similarly, argument that it is only portion of enhancement of work in respect to which dispute is pending, cannot come to aid of petitioner when it is a matter of record that functionality of Scheme has not yet been tested. It is not understandable as to how completion certificate can be issued for the purpose of tendering only. Either the work in question is complete or not. Reliance upon the report of Consultant where petitioner was found technically responsive, is also irrelevant in view of fact that such a report was issued only on the basis of certificate dated 04.04.2025.

11. Keeping in view the facts and circumstances as above, we do not find any ground whatsoever to cause interference in this matter in exercise of jurisdiction under Article 226 of Constitution of India.

12. No other argument has been addressed.

13. Writ petition is, accordingly, dismissed.

(LISA GILL)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

September 05, 2025

Rts

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