



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

**CWP No.22877 of 2025 (O&M)
Date of Decision: 05.09.2025**

M/s Sandeep Kumar Contractor

.....Petitioner.

Versus

State of Haryana and others

.....Respondents.

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

Argued by:- Mr. Anil Ghanghas, Advocate
 for the petitioner.

Mr. Sukhdeep Singh Parmar, Addl. A.G, Haryana
for respondents No.1 to 6.

Mr. Manjeet Singh, Advocate
for respondent No.7.

MEENAKSHI I. MEHTA, J.

By way of instant Civil Writ Petition, the petitioner-Firm has sought the indulgence of this Court for the issuance of a writ in the nature of certiorari, setting-aside the decision dated 27.06.2025 (Annexure P-5) of respondent No.5 for declaring it (petitioner) as non-responsive qua the technical bid dated 02.07.2025 (Annexure P-7) and considering it to be disqualified for the financial bid dated 22.07.2025 (Annexure P-11) and it (petitioner) has further prayed for issuing a writ in the nature of mandamus, directing the respondents to grant it an opportunity to explain/clarify the



above-said matter and to declare it as qualified for the technical bid and consider its financial bid, along-with those of other technically qualified bidders and to allot the work to it.

2. Shorn and short of unnecessary details, the averments, as canvassed by petitioner-Firm in the present writ-petition, are that it is a proprietorship Firm, registered with Haryana Engineering Works Portal of the Government of Haryana and is enlisted as Class-I Contractor. On 27.05.2025, the respondent-Department published Detailed Notice Inviting Tender, *online*, (for short 'DNIT' and annexed in the paper-book as P-1) for "*Special Repair of Jind Barwala Agroha Road (Section Kheri Chopta to Barwala) (SH-10)*" for estimated cost of Rs.743.02 lacs. Last date for submission of bids, through e-tendering, was scheduled to be 09.06.2025. Selection process of bids consisted of two stages, i.e technical and financial evaluation. The bidders, qualifying the technical evaluation, were eligible to participate in the financial bid. The petitioner was having a Hot-Mix Plant (for short 'the Plant') in workable condition as required under Clause-39 of the DNIT and had already been allotted another work of special repair of the roads by respondent No.4 vide Letter of Acceptance dated 05.06.2025 (Annexure P-2) and it was, thus, having requisite technical qualification to be eligible for consideration of its financial bid. Vide letter dated 20.06.2025 (Annexure P-3), Sub-Divisional Engineer, Provincial Sub-Division, PWD (B&R) Branch, Barwala, (for short 'the SDE, Barwala') intimated the proprietor of the petitioner to remain present at the site on 21.06.2025, along-with all the documents in respect of the Plant. Then, he visited and inspected the site of the petitioner and sites of



two other bidders namely M/s Debaa Contractors, i.e respondent No.7 and Shri Balaji Builders, to ascertain the workability and availability of their Plants and submitted his report to respondent No.6 vide letter dated 24.06.2025 (Annexure P-4).

3. The petitioner has, further, averred that it received letter dated 27.06.2025 (Annexure P-5), wherein it was intimated that the Committee had visited its site on that day and its Plant was found to be non-operational and last opportunity was granted to it (petitioner) to open the Control Cabin and ensure its proper functioning by 30.06.2025. The petitioner submitted its reply (Annexure P-6) dated 30.06.2025, explaining therein that its Plant-Operator was not available and routine maintenance work of the Plant was going on and requesting for grant of 10-15 days' time to do the needful accordingly. However, members of respondent No.5-Committee held a meeting on 02.07.2025 for evaluating the technical bids, submitted by the participants and illegally declared petitioner as non-responsive on the ground that its Hot-Mix Plant was not in working condition as per Clause-39. Afore-said report of the Committee was published on the Portal on 07.07.2025, whereby 07 days' time was given for filing objections. The petitioner submitted representation Annexure P-8 to respondent No.6 on 13.07.2025 and another representation Annexure P-9 to respondent No.2 on 14.07.2025 but in vain. The decision of official respondents to consider technical bid of the petitioner as non-responsive is illegal, arbitrary, discriminatory and against the principles of natural justice as the financial bid of the petitioner (Annexure P-12) is the lowest, in comparison to bids submitted by other bidders and detailed in Annexure P-11.



4. Respondents No.1 to 6, in their joint Reply, have contested the claim of the petitioner, *inter-alia*, on the grounds that financial bids of technically qualified bidders had been opened on 22.07.2025 and the work already stood allotted and moreover, petitioner has not approached this Court with clean hands and has deliberately suppressed material facts, having direct bearing on the merits of the instant matter. The entire process of allotment of the work has been carried out strictly in accordance with relevant rules, instructions and the conditions as laid down in DNIT and in a transparent manner, so as to ensure grant of equal opportunity to all the participants. The technical bids had not been evaluated by any single individual and rather, this task had been carried out by a duly constituted Technical Evaluation Committee, i.e respondent No.5, consisting of senior officials, i.e three (03) Superintending Engineers from the Head Office, Executive Engineer and DAO, Hansi Division and an Executive Engineer from Mechanical Wing. In case, a bidder is declared to be non-responsive due to non-fulfilment of any essential qualification/condition, his financial bid is not opened. In all fairness, the petitioner had been granted time up to 30.06.2025 to ensure the workability of its Plant as the same had not been found to be in workable condition at the time of inspection of its site by the Committee on 27.06.2025. In such an eventuality, the petitioner could have opted for the alternative mode of furnishing bank-guarantee as provided under Clause 39(i) of the DNIT but it had not done so.

5. Respondent No.7 preferred to file its separate Short-Reply wherein it has made assertions, more or less similar to the ones, as set-forth by respondents No.1 to 6 in their joint Reply.



6. We have heard learned counsel for petitioner, learned State counsel for respondents No.1 to 6 and learned counsel for respondent No.7 in the present petition and have also gone through the file thoroughly.

7. Learned counsel for petitioner contended that vide letter Annexure P-2 dated 05.06.2025, petitioner had been allotted the contract for repair of some roads, on the basis of the same Hot-Mix Plant and even in his report Annexure P-4, the SDE, Barwala, has categorically observed that he had visited the site on 24.06.2025 and the Plant was in workable condition and was within 50 Kms radius, as per the condition of the contract but however, the official respondents, in a *mala-fide* manner and to give undue benefit to some other bidders, wrongly observed in letter Annexure P-5 that the Plant was non-operational whereas in fact, the work of routine maintenance and servicing of the Plant was going on at the time of visit of members of the Committee at the site. He has, further, contended that financial bid of the petitioner, i.e Annexure P-12, is the lowest in comparison to the bids submitted by remaining participants, as shown in Annexure P-11 and to add to it, though the petitioner had preferred representations Annexures P-8 and P-9, within the stipulated period of seven (07) days from the date of uploading of the evaluation report of technical bids on the Portal but the same have not been decided before opening the financial bids of the bidders, who had been considered to be technically eligible. In these circumstances, it becomes explicit that rejection of the technical bid of the petitioner is arbitrary and *mala-fide*. Therefore, petitioner deserves to be allowed to participate in the process of financial bid and to be allotted the work as per the DNIT in question.



8. Per contra, learned State counsel for respondents No.1 to 6 and learned counsel for respondent No.7 have argued that the petitioner was rightly declared to be non-responsive during evaluation of technical bids as its Hot-Mix Plant was not found to be in workable and functional condition and though respondent No.5-Committee granted an opportunity to the petitioner to ensure proper functioning of its Plant by 30.06.2025 but it had failed to do so till that date and hence, its bid has correctly been declared to be technically non-responsive and even otherwise, the work already stands allotted to the successful bidder and therefore, this petition deserves dismissal.

9. Though, vide letter Annexure P-2, petitioner-Firm had been allotted the work of repair of roads, as detailed therein but the fact remains that it pertains to the tender floated on 05.05.2025. In the instant matter, the DNIT was, undisputedly, uploaded on 27.05.2025 and last date for submission of bids was fixed as 09.06.2025, subsequent to the issuance of letter Annexure P-2 on 05.06.2025. It is worth-while to mention here that as per Clause 39(i) of DNIT Annexure P-1, the Hot-Mix Plant should be in possession of the bidder on the date of tender and also in workable condition, meaning thereby that the relevant date to ascertain fulfilment of above-referred eligibility condition would be 09.06.2025. It being so, factum of the Plant being in workable condition at the time of allotment of work in pursuance of afore-mentioned earlier tender, would not entitle the petitioner to claim eligibility, as on 09.06.2025.

10. Although, in his report Annexure P-4, SDE, Barwala, has mentioned that he had visited the site of petitioner-Firm on 24.06.2025 and



the Plant was in workable condition at that time but we cannot lose sight of the fact that the above-said officer has also categorically pointed out therein that maintenance work of the Plant was in progress. This report is, thus, self-contradictory and hence, it cannot be of any avail to the petitioner to claim eligibility on the score of technical qualification, for the tender under reference and that too, especially in the circumstances, when in Annexure R-7/2, the copy of proceedings of 2nd meeting of respondent No.5 (Tender Technical Evaluation Committee), it has explicitly been observed that a complaint had been received from the Head Office on 26.06.2025, alleging that the petitioner's Plant was non-functional and also in view of the fact that a Committee, consisting of three (03) Executive Engineers, who happen to be senior to the SDE, had specifically reported in Annexure P-5 that they had visited the site of the Plant on 27.06.2025 and had found as under:-

- “* The conveyor belt was disassembled, and the conveyor rollers were not installed, indicating incomplete operation-ability.*
- * The control panel could not be inspected as it was locked. Your staff did not provide the key during previous visits of SDE's stating it was with the plant operator who is currently in Bihar. This is major point need to be inspected as mentioned in the complaint. But you informed the committee that the lock could not be broken for inspection showing your intention not showing the control cabin.*

Based on these observations, presently it is considered that your plant is non-operational.”



It is again pertinent to mention here that the afore-mentioned Committee had even granted last opportunity to the petitioner to open the Control Cabin and to ensure its proper functioning by 30.06.2025. This fact, in itself, does lead to the only irresistible conclusion that the official respondents did not at all intend to deprive the petitioner from participating in the financial bid process. Moreover, allotment of work by respondent-Department to the petitioner earlier vide letter Annexure P-2 also speaks volumes of the fact that there were no *mala-fides* on the part of official respondents in declaring technical bid of the petitioner as non-responsive.

11. To cap it all, proprietor of the petitioner-Firm himself had written letter Annexure P-6 on 30.06.2025, mentioning therein that they were trying for early return of their Plant-Operator who had planned to return after 10/15 days and by that time, routine maintenance and servicing work would also be completed. This fact unequivocally reflects non-compliance of the Committee's direction by the petitioner, qua ensuring proper functioning of its Plant/Control Cabin till the extended period, i.e up to 30.06.2025. Further, Annexure R-1 is the copy of letter, as written by the Committee, consisting of three Executive Engineers, to respondent No.4 on the same day, i.e 30.06.2025, specifically informing therein that they had visited the site on that day to assess the operational status of the Plant but had found that it was non-operational and inspection of the Control Panel could not be carried out as the same was again found locked. In case, the Plant-Operator of the petitioner had gone to his native place, even then in the normal course of events, entire work/functioning of the petitioner



cannot be presumed to have come to a halt and rather, the petitioner could have made some suitable arrangement for opening the Control Cabin for its inspection by the Committee.

12. As regards representations Annexures P-8 and P-9 moved by the petitioner against declaration of its technical bid being non-responsive, it is necessary to clarify here that a perusal of Annexure R-7/2, i.e copy of the proceedings of 2nd meeting of respondent No.5-Committee, reveal that the same were considered and dealt with by the Committee and were not found to be satisfactory.

13. Seen from yet another angle, the scope and extent of power of the Writ Court for judicial review of any order passed or decision taken by the competent Authorities in respect of Government contracts and tenders has been considered and crystallized by Hon'ble Supreme Court on various occasions. In **Tata Cellular Vs. Union of India, (1994) 6 SCC 651**, the Apex Court made the following observations:-

“It cannot be denied that the principles of judicial review would apply to the exercise of contractual powers by government bodies in order to prevent arbitrariness or favouritism. However, it must be clearly stated that there are inherent limitations in exercise of that power of judicial review. Government is the guardian of the finances of the State. It is expected to protect the financial interest of the State. The right to refuse the lowest or any other tender is always available to the Government.”

In **The Silppi Constructions Contractors Vs. Union of India**



and another etc., Special Leave Petition (Civil) Nos.13802-13805 of 2019,

decided on 21.06.2019, Hon'ble Supreme Court has made the following
categoric observations:-

“No doubt, the bodies which are State within the meaning of Article 12 of the Constitution are bound to act fairly and are amenable to the writ jurisdiction of superior courts but this discretionary power must be exercised with a great deal of restraint and caution. The Courts must realise their limitations and the havoc which needless interference in commercial matters can cause. In contracts involving technical issues the courts should be even more reluctant because most of us in judges’ robes do not have the necessary expertise to adjudicate upon technical issues beyond our domain.”

The above-cited observations are fully applicable to the facts and circumstances of the present case because as discussed earlier, the petitioner has not been able to establish/show any malice or *mala-fides* on the part of the official respondents in declaring its technical bid to be non-responsive one and in the light of the afore-quoted observations, it becomes crystal clear that there are no cogent or plausible reasons to set-aside the impugned decision regarding rejection of technical bid of the petitioner on account of the same being non-responsive.

15. As a sequel to the fore-going discussion, it follows that impugned decision (Annexure P-5) does not suffer from any infirmity, illegality, irregularity or perversity so as to call for any interference by this Court. Resultantly, the Civil Writ Petition in hand, being *sans* any merit,



stands dismissed accordingly.

16. Pending Civil Misc. Application(s) also stand(s) disposed of.

(LISA GILL)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

September 05, 2025
Yag Dutt

<i>Whether speaking/reasoned:</i>	<i>Yes/No</i>
<i>Whether Reportable:</i>	<i>Yes/No</i>