
(2002) 03 P&H CK 0073
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 5069 of 2002

Kumar Builders, Bathinda

APPELLANT

Vs

The Union of India (UOI) and Others

RESPONDENT

Date of Decision : 22-03-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 3 RCR(Civil) 421

Hon'ble Judges : N.K. Sud, J;Jawahar Lal Gupta, J

Bench : Division Bench

Advocate : B.S. Bali, Salil Bali and D.V. Gupta, for the Appellant;

Final Decision : Dismissed

Judgement

Jawahar Lal Gupta, J.—The work of construction of Rail Level Platform at Dhandari Kalan had to be executed. The estimated cost was Rs. 1,96,44,0007-. Tenders were invited. The petitioner made an offer to do the job for an amount of Rs. 1,72,95,189/-. Respondent No.4 made an offer of Rs. 1,75,00,000/-. Ultimately, the work was allotted to respondent No. 4. The petitioner alleges that the respondents were bound to allot the work to it as its offer was the lowest. Thus, it prays that the action of the respondents in making the allotment to respondent No. 4 be quashed.

2. We have heard Mr. D.S. Bali, learned counsel for the petitioner. He submits that in terms of the Circular dated January 15. 1999 the petitioner was entitled to the allotment of the work.

3. It is true that the petitioner's offer was slightly lower than that of the 4th respondent. However, it appears that vide letter dated January 3, 2002 the petitioner was directed to provide information regarding serviceable plants and machinery available with it. The details regarding the contractual payments received by it during the financial year were also sought. In reply, the petitioner had informed the respondents that the information has already been furnished

vide letter dated January 12, 2002, The petitioner had not produced a copy of the letter dated January 3, 2002 by which the query was made. However, it has been shown to us during the hearing. A perusal of this letter shows that the respondent-authority had pointed out certain facts to the petitioner. It was mentioned that on scrutiny of the papers submitted by the petitioner along with the tender, it was seen that certain documents as required under the tender conditions had not been submitted. The details of documents sought by the respondents read as under: -

"1. The list of serviceable plants and machinery available and proposed to be used for the work as per clause 2.3.2 of tender conditions.

2. Contractual payments received during each financial year during (the) last three years in original/attested by gazetted officer as per clause 2.3.2(A) of tender conditions, or Latest ITCC in original/attested by gazetted officer showing the contractual payments received during preceding three years as per clause 2.5.1 of tender conditions.

3. Constitution of the old firm/partnership deed/memorandum of article of association/power of attorney in original/attested by Notary Public with seal and revenue stamp thereon as per clause 2.4.1. tender conditions.

4. You have not submitted the details of works in hand as per Annexure-C (item 6). However, you are advised to submit details as per enclosed proforma." A copy produced by the counsel is taken on record as Mark "A".

4. The petitioner claims to have responded to this letter vide communication dated January 31, 2002. A copy of this letter has been produced. It is Annexure P-4. The petitioner merely stated that the information had already been submitted vide letter dated January 12, 2002. A copy of this letter is on record as Annexure P-5. It is after consideration of all the facts, etc. as disclosed by the petitioner, that the final decision to allot the work to respondent No. 4 was taken.

5. It is undoubtedly true that under the normal circumstances, the public authority should allot the work at the lowest cost. This is so because public funds must be carefully utilised. Yet, this rule cannot be absolute. The authority is entitled to consider all relevant circumstances including the capacity and capability of the contending parties. The cheapest may not always be the best. The quality and competence have to be kept in view. Has the authority followed this rule in the present case?

6. It is true that the petitioner had offered to do the work at a cost slightly lower than that for which the work has been allotted to respondent No. 4. But the authority appears to have examined the petitioner's suitability in the light of its capacity to execute the work. The authority had asked for relevant information. The reply was evasive. It is on consideration of the relevant facts that it has taken the final decision. Nothing has been produced before us to show that respondent No. 4 was not suitable or its experience was in any way less than

that of the petitioner. Taking all the facts into consideration, we find that the action of the respondent-authority is not illegal so as to call for any interference under Article 226 of the Constitution of India.

7. No other point has been raised.

8. In view of the above the writ petition is dismissed in limine.

Sd/- N.K. Sud, J.