

(2005) 12 P&H CK 0064
In the Punjab And Haryana At Chandigarh
Case No : Civil W.P. No. 9003 of 2005

New Golden Bus Service

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 13-12-2005

Acts Referred:

Citation : AIR 2006 P&H 141

Hon'ble Judges : D.K. Jain, C.J.; Hemant Gupta, J

Bench : Division Bench

Advocate : Deepali Puri, for the Appellant; Nirmaljit Kaur, AAG, Ashok Singla and Ranjan Bansal, (for No. 3), for the Respondent

Final Decision : Dismissed

Judgement

Hemant Gupta, J.—The challenge in the present writ petition is to the grant of contract to respondent No. 2 in pursuance of notice inviting tender (Annexure P-1), which was to be submitted on or before 7-2-2005.

2. The Excise and Taxation Commissioner, Punjab, published notice inviting tenders from the registered Taxi Stands organizations/firms dealing in hiring services of vehicles. The type of vehicle sought to be hired was mentioned as Qualis/Tata Sumo/ Scorpio with period of hire yearly/monthly. Column No. 6 contemplated quoting of yearly rate. Clause 4 of the said notice was to the effect that the rate shall be, valid for a period of one year and any increase during the period of contract in the taxes and levies shall be borne by the owner at his risk and cost.

3. In pursuance of such advertisement, the petitioner as well as respondent No. 3 submitted tenders on 2-4-2005. Respondent No. 3 was appointed the authorised contractor for the supply of vehicles to the Excise and Taxation Department, Punjab, on yearly hire basis for a period of 2 + 1 year w.e.f. 1-5-2005 to 30-4-2007 extendable for another one year with mutual consent. Such grant of contract has been challenged, inter alia, on the ground that

respondent No. 3 has quoted rates for providing the vehicle for a period of three years, although there was no such stipulation in the notice Inviting tender. It is argued that if such condition was known to the petitioner, he would have also given rate for the said period. In the absence of such stipulation, the rate offered by the petitioner was for a period of one year. Therefore, the action of the respondent in awarding contract for a period of three years is not contemplated in terms of the notice inviting tenders as the contract was stipulated for one year. It is also argued that respondent No. 3 has been permitted to change vehicle Qualis, sought for in the notice, with vehicle Tavera. It is also not permissible.

4. It is the stand of the respondent that mere calling for the yearly rates is not indicative of the fact of period of the contract. Since the rates offered by respondent No. 3 were the lowest, it has been awarded the contract for a period of three years. By granting such contract, the department has not caused any loss to the public exchequer. Such action in awarding the contract is bona fide exercise of the jurisdiction vested in them. It is also submitted that respondent No. 3 was permitted to substitute Qualis vehicle with Tavera in view of the fact that the Qualis vehicles are no longer being manufactured and, therefore, similar vehicle of same price and category has been permitted to be provided by the said respondent.

5. After hearing learned Counsel for the parties at some length, we are of the opinion that the petitioner has not been able to point out any Illegality in the decision making process resulting into award of contract to respondent No. 3. The notice inviting tender has no stipulation regarding the contract period. Learned Counsel for the petitioner has sought to infer the contract period as one year on the basis of either the period of hire mentioned in column No. 4 or in terms of Clause 4 pertaining the validity of rate for a period of one year. Though it would have been advisable to specify the period of contract but mere omission of the same in the notice inviting tenders will not render the entire tender process vitiated on account of vagueness. The petitioner has not sought any clarification in respect of the period of contract either before or after the opening of the tenders.

6. It could not be disputed that manufacturing of Qualis vehicles has since been stopped. Clause 3 of the notice inviting tenders that the vehicles should not be more than six months old cannot be fulfilled in respect of such vehicle. Therefore, substitution of such vehicle With Tavern vehicle, having almost the same price and the category, cannot be said to be arbitrary and whimsical on the basis of which the contract in favour of respondent No. 3 can be said to be vitiated. Since the offer of respondent No. 3 was the lowest, award of such contract to respondent No. 3 Cannot be said to be patently illegal or arbitrary which may warrant interference in exercise of extraordinary writ jurisdiction of this Court.

7. In view of the above, we do not find any merit in the present writ petition. The same is dismissed with no orders as to costs.