
(2014) 09 P&H CK 0013
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 24801 of 2013 (O and M)

Varinderjeet Kaur

APPELLANT

Vs

State of Punjab and Others

RESPONDENT

Date of Decision : 19-09-2014

Acts Referred:

Citation : (2015) 3 RCR(Civil) 651

Hon'ble Judges : K. Kannan, J

Bench : Single Bench

Advocate : H.P.S. Rahi, Advocate for the Appellant; Suvir Sehgal, Additional Advocate General, Advocate for the Respondent;

Final Decision : Disposed off

Judgement

K. Kannan, J.

1. This petition is for quashing the order dated 3.1.2013 cancelling the allotment of fancy number bid at an auction held on 3.8.2012, in terms of a notification issued on 24.10.2007 by the Department of Transport, Government of Punjab, in purported exercise of powers stipulated in 1st proviso to Rule 42-A of the Punjab Motor Vehicles Rules, 1989. In the open auction, the petitioner had then bid for the fancy number i.e. PB-65R-0007 for ` 2,20,000/- on 3.8.2012. In terms of the notification, a person participating in the auction, shall deposit 50% of the half sale price/reserved price kept at ` 10,000/- and in case of completion of auction in favour of the highest successful bidder, he shall pay the full bid amount and get the vehicle registered within 7 days. The notification provides that the amount deposited with the application shall be forfeited and the number shall be allotted to the next highest bidder. It appears that apart from ` 5,000/-, being 50% of the reserved price, the petitioner had also tendered the full bid amount of ` 2,20,000/- on the same day. However, the petitioner did not have the vehicle registered within 7 days and claim the number.

2. Although the conditions in the notification provide for allotment of the number

to the next highest bidder in the event of the successful bidder failing to pay the full bid amount and get the vehicle registered, the number should be allotted to the next highest bidder, among the participants of the auction, the department allowed for the number to be allotted to the 4th respondent, who incidentally is the wife of the Education Minister of Government of Punjab. She claimed the number on payment of only ` 10,000/- being the reserved bid amount, on 8.8.2013.

3. The petitioner's grievance is that the vehicle number could not have been allotted to the 4th respondent who had not even participated in the auction on that day, as the information secured from the RTI reveals and that further the offer of the number to the persons who had participated in the auction, had also not been made. According to the petitioner, the claim of the official respondents that they had informed the petitioner through an ordinary letter to bring the vehicle for registration for claiming the number and that the petitioner did not turn up and therefore, they had allotted the number to the 4th respondent was not true. The contention is that the said letter was not received at all.

4. I do not think, the official respondents must have engaged the petitioner in any form of communication after the auction, was in any way, necessary. The notification required two things to be done viz., after the person was declared as a successful bidder, the first of such person was required to deposit the bid amount and secondly to get the vehicle registered within 7 days. This must be a voluntary act by the vehicle owner himself and if it was not done, he could have no further cause of complaint against the respondents. I will not, therefore, allow for an objection of the petitioner that she was not served with the communication of the respondents for getting the vehicle registered within 7 days to claim the number, and treat it as irrelevant. The prayer in the writ petition for quashing the order of cancellation cannot therefore, be granted to the petitioner.

5. I do not however, find any justification for the respondents to retain the entire amount deposited. The forfeiture has to be only of the amount which was deposited with the application and such amount must be understood as the amount of ` 10,000/- which is required to be submitted with the application. Thus, the bid amount is not an amount which could be forfeited at all. There is no such provision for forfeiture of the bid amount. If it were to be construed that the reference to amount deposited with the application must also include an amount that was later settled as the successful bid, I hold it as not permissible to do, since such a feature is in terrorem and being in the nature of penalty, not enforceable. I, therefore, direct that the amount of ` 2,20,000/- to be refunded to the petitioner with interest of 12% from the date of amount was paid on 3.8.2012 till the date of payment.

6. Even while ordering the refund to the petitioner, in my view, the case would require to be considered also for what State is required to do for having surrendered the benefit of the 4th respondent. The 4th respondent evidently has

been a beneficiary of nepotism which is writ large on the proceedings.

7. Counsel appearing on behalf of the official respondents makes a faint plea that the allotment of other bidders did not become possible as they did not press for their rights and took registration of their own vehicles without seeking for the fancy number. It is an obvious cover up. In the first place, there is no such defence and in the second place it is not even a procedure that contemplated under the notification. The notification provides that if a successful bidder fails to pay the amount and get the vehicle registered within 7 days apart from forfeiture of the amount deposited with the application, the number shall be allotted to the next highest bidder. Thus, after the waiting period of one week on the completion of the 7th day, an offer of the number ought to have been made to the next highest bidder, namely, Paramjit Singh for ` 2,10,000/- and the procedure must have been repeated till a period of 30 days to the next bidders in the order of the highest bids in descending order among the highest bids.

8. Although there is no prayer by the petitioner for directing the 4th respondent to pay, in my view, interest of justice requires that the issue of whether the 4th respondent could have been allotted the fancy number requires to be addressed. The officials that operate the system are not running their private offices and it ought to have been the responsibility of the District Transport Officer to secure the next highest bid amount of ` 2,10,000/- from the 4th respondent. No further notice is necessary since 4th respondent has been served and I have heard the counsel for the 4th respondent on this issue.

9. Counsel appearing on behalf of the 4th respondent states that the fancy number, which was not claimed, could be given to any person. After the cancellation of the number to the petitioner in January 2013, the number was allotted to her only in August, 2013 and therefore, she cannot be seem to be an immediate beneficiary. I reject this argument for the illegality which is so patent. She was picked up for this number. There is simply no justification for the State not to have called the next highest bidder and if it had not been allotted till August, I will make an inference as surely possible that it was decided to be gifted to the 4th respondent as her choice. The amount shall be recovered from the 4th respondent. No further notice for recovery is required and this recovery shall be made within a period of 30 days. If the State is resisted in its attempt to enforce payment by the 4th respondent, the 3rd respondent shall be personally responsible and the amount shall be collected from him and deposited in the Government Treasury and reported to this Court. The report shall be made within 8 weeks from the date of passing of the order.

The writ petition is disposed of with the above directions. To report compliance of the order of the Court, list on 28.11.2014.