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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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DATE OF DECISION: 29.04.2025

M/S LUXMI INFOTECH AND PRINTERS

... Petitioner (s)

Versus

**CHAUDHARY CHARAN SINGH HISAR AGRICULTURAL
UNIVERSITY AND OTHERS**

... Respondent(s)

**CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA**

Present: Mr. Ramesh Kumar, Advocate for the petitioner.

Mr. Naveen S. Bhardwaj, Advocate for the respondents.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioner has impugned the order dated 18.04.2024 (Annexure P-15) whereby its representation for allotment of tender has been declined.

2. Learned counsel for the petitioner submits that the petitioner had applied for allotment of tender in pursuance to the notice inviting tender issued by respondent/University on 29.02.2024 (Annexure P-1). The petitioner fulfilled all the requirements, therefore, its bid ought to have been considered but the petitioner was erroneously found to be technically unqualified by the order dated 07.03.2024 (Annexure P-6). He further submits that while rejecting the representation on 18.04.2024, the respondent-University had stated that a fresh purchase would be effected by floating a fresh tender in the financial year 2024-2025 but the fresh tender has not been floated and therefore, the respondents be directed to float a fresh tender. In support of his submissions, he has relied upon the judgment of the Supreme Court in the case of **Subodh Kumar Singh Rathour vs. Chief Executive Officer, (2024) SCC Online SC 1682**.

3. Heard.

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4. The petitioner is the unsuccessful bidder in the tender process initiated by the respondent-University by issuing a notice inviting tender on 29.02.2024 (Annexure P-1) for purchase of multi-functional printer along with High Volume Finisher for the Controller of Examination of the respondent/University. The technical bid of the petitioner was rejected as it did not meet the requisite specifications by the order dated 07.03.2024 (Annexure P-6). He had challenged the order dated 07.03.2024 by preferring a writ petition bearing CWP No.6957 of 2024 and this Court had disposed of the petition on 22.03.2024 (Annexure P-13) whereby the respondents were directed to consider the representation of the petitioner within a period of four weeks. The respondents had considered and rejected the representation of the petitioner vide the impugned order dated 18.04.2024 (Annexure P-15). It was stated in the impugned order that the petitioner did not have the capacity to supply the paper and it had also made a reference to the minutes of the meeting of Equipments Specification Committee held on 13.03.2024 wherein it was mentioned that the total paper supply capacity of the machine as per the documents submitted by the petitioner is 6650 sheets while the capacity of the other bidders is higher. It was also stated in the impugned order dated 18.04.2024 that the Controller of Examination had requested to drop/cancel the purchase due to lapse of administrative approval and financial sanction pertaining to the financial year 2023-2024 and no further action was called for at that stage. It was further stated that the purchase shall be effected afresh by floating a fresh tender for the financial year 2024-2025 on receipt of funds and financial sanction by the competent authority. The relevant extract of the impugned order dated 18.04.2024 (Annexure P-15) is reproduced hereunder:

“XXXXX

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The tender/bid was not considered by the Equipment Specification Committee in its meeting held on 13.03.2024 due to following reasons:-

The total paper supply capacity of the machine is 6650 sheets (after attachment the larger tray LU-303) as per the documents of M/s Luxmi Infotech and Printers, Hisar, whereas others have higher paper supply capacity. As far as First copy print out time difference of 0.1 is concerned, it is stated that the office of COE prints in thousands of copies. If the first print out time will make 0.1 second differences, so there will be large paper print out difference which will hamper the efficiency. The tender document mention on 3.1 second or less. If we consider the request of M/s Luxmi Infotech and Printers, Hisar. The other supplier who have 3.2 or less capacity, they can also raise the question mark in the tender/bid.

2. Accordingly, financial bid of the above three firms except M/s Luxmi Infotech and Printers, Hisar were opened by the Financial Bid Opening Committee on 14.03.2024 and based on the recommendation, the purchase was approved by Central Purchase Committee of the University in favour M/s Swift Solution, Hisar on their negotiated rates i.e. 18,50,000/- on 15.03.2024. However, due to enforcement of model code of conduct, the supply order for above purchase has not been placed to the qualified firm by the concerned department so far.

Xxxxx

4. During the course of personal hearing the indenter i.e. Controller of Examination has also requested to drop/cancel the purchase due to lapse of administrative approval and financial sanction which pertains to the financial year 2023-24. Therefore, at this stage no further action is required and the purchase shall be effected afresh by floating fresh tender in the financial year (2024-25) on receipt of funds and financial sanction of the competent authority as per prescribed purchase procedure.”

6. It is apparent that the petitioner had participated in the tender process but was not the successful bidder. The respondent No.9 was stated to be the successful bidder and the tender was allotted to it. The petitioner does not have any vested right to seek a direction that the fresh tender be floated by the respondents. In the impugned order itself, the respondents had stated that

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the fresh tender would be floated on receipt of funds and financial sanction of the competent authority. This exercise had to be carried out for the financial year 2024-2025. The petitioner has preferred the instant petition after one year of the order passed by the respondent on 18.04.2024 and also after the financial year 2024-2025 had come to an end.

6. The judgment in the case of **Subodh Kumar Singh Rathour vs. Chief Executive Officer** (supra) relied upon by learned counsel for the petitioner does not advance the case of the petitioner in any manner whatsoever. In that case, it was the successful bidder, who had approached the Court. The work had been allocated to the appellant therein who had also executed some part of it and had made investments in that regard but the tender had been cancelled without assigning proper reasons. The tender was for construction of underpasses and the appellant therein had erected multiple structures at different sites and had made significant investments pursuant to the tender. It was in such circumstances that the Supreme Court had held the order of cancellation to be non-est. However, in the instant case, the petitioner is not the successful bidder and therefore, the question of his having any vested right against the cancellation does not arise.

7. If at all, anybody was aggrieved of the action in cancellation of the tender, it would be respondent No.9 who was the successful bidder but he has not challenged the action of the official respondents.

8. It is trite that scope for judicial review in tender matters would be confined to cases where the decision appears to be perverse, arbitrary or suffers from *malafide* or favouritism. The courts would refrain from going into the merits of decision and would test the decision making process through the lens of Wednesbury principle of reasonableness. The courts ought to bear in mind



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that in contractual matters the Government bodies ought to be granted ‘fair play in the joints’. Reference can be made to the judgment of the Supreme Court in the case of **Tata Cellular vs. Union of India, AIR 1994 (6) SCC 651**. The relevant extract of the judgment is reproduced hereunder:-

“XXXXX

84. 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 favoritism. However, it must be clearly stated that there are inherent limitations in exercise of that power of judicial review. xxxxxx

85. Judicial quest in administrative matters has been to find the right balance between the administrative discretion to decide matters whether contractual or political in nature or issues of social policy; thus they are not essentially justifiable and the need to remedy any unfairness. Such an unfairness is set right by judicial review.

Xxxxxx

108. The principles deducible from the above are :

(1) The modern trend points to judicial restraint in administrative action. 1

(2) The court does not sit as a court of appeal but merely reviews the manner in which the decision was made.

(3) The court does not have the expertise to correct the administrative decision. If a review of the administrative decision is permitted it will be substituting its own decision, without the necessary expertise which itself may be fallible.

(4) The terms of the invitation to tender cannot be open to judicial scrutiny because the invitation to tender is in the realm of contract.

Normally speaking, the decision to accept the tender or award the contract is reached by process of negotiations through several tiers. More often than not, such decisions are made qualitatively by experts.

(5) The Government must have freedom of contract. In other words, a fair play in the joints is a necessary concomitant for an administrative body functioning in an administrative sphere or quasi-administrative sphere. However, the decision must not only be tested by the application of Wednesbury principle of reasonableness



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(including its other facts pointed out above) but must be free from arbitrariness not affected by bias or actuated by mala fides.

(6) Quashing decisions may impose heavy administrative burden on the administration and lead to increased and unbudgeted expenditure.

XXXXXX”

9. The principles laid down by the Supreme Court in **Tata Cellular vs. Union of India (supra)** have been reiterated by the Supreme Court in the cases of **Central Coalfields Ltd. vs. SLL-SML(Joint Venture Consortium) (2016) 8 SCC 622** and **National High Speed Rail Corporation Limited vs. Montecarlo Limited and Another (2022) 6 SCC 401**. The relevant extract of the judgement in the case of **Central Coalfields Ltd. (supra)** is reproduced hereinunder:-

“47. xxxxxx. As pointed out in Tata Cellular there must be judicial restraint in interfering with administrative action. Ordinarily, the soundness of the decision taken by the employer ought not to be questioned but the decision-making process can certainly be subject to judicial review. The soundness of the decision may be questioned if it is irrational or mala fide or intended to favour someone or a decision “that no responsible authority acting reasonably and in accordance with relevant law could have reached” as held in Jagdish Mandal followed in Michigan Rubber.

XXXXXX”

10. We, therefore, do not find any illegality in the impugned order dismissing the representation of the petitioner as it was devoid of any merit. Consequently, the petition stands dismissed.

(ANUPINDER SINGH GREWAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

29.04.2025

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|-----------|---------------------------|---|----------|
| SwarnjitS | Whether speaking/reasoned | : | Yes / No |
| | Whether reportable | : | Yes / No |