

**In the High Court of Punjab and Haryana at Chandigarh**

[136]

CWP-1948-2025**Date of Decision: 17.02.2025**

M/S. FRIENDS ELECTRICAL STORE.

..... PETITIONER

VERSUS

STATE OF PUNJAB AND OTHERS

.....RESPONDENTS

**CORAM: HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MR JUSTICE VIKAS SURI**

Present: Mr. Shiv Kumar, Advocate,
Mr. Raman Kaplish, Advocate and
Mr. Lovedev Singh, Advocate for the petitioner/Company.

Mr. Maninder Singh, Sr. DAG, Punjab.

Mr. Armaan Saggar, Advocate for respondent No.4.

SURESHWAR THAKUR, J. (ORAL)

1. In response to the apposite invitations to offer as became made in the news paper concerned, the present petitioner/company(ies) made a response. However his technical bid became rejected through the passing of the impugned order(s) enclosed respectively in Annexure(s) P-11 and in P-14.

2. Before proceeding to decide the validity of the supra annexures, it is necessary to bear in mind the relevant tender conditions, which become carried in Annexure P-11, contents whereof become extracted hereinafter, whereby the tenders are required to be respectively uploading the bids which become submitted by them before the authority concerned. Significantly there is a bar envisaged therein against the physical tendering of the tender forms to the comptent authority.

“Clause 5(J) of the policy reads as follows:-

“Tender form/Technical bid uploaded without attaching/uploading the document(s) required under Clause 4 and 5 of this policy shall be rejected.”



“Clause 7(A) (III) of the policy reads as follows:-

“No Tender shall be accepted in physical form. All the tenders shall be uploaded online with the required documents within the date and time specified in the advertisement or up to the extended date and time, if it is so.”

“Clause 7(C) (II) of the policy reads as follows:-

“Tender form uploaded without attaching/uploading the document(s) required under this policy shall be rejected.”

“Clause 7(D) (III) of the policy reads as follows:-

“The technical bid will be rejected for those tenderes who do not fulfil required general and technical qualifications.”

3. The relevant tender condition(s), which becomes invoked against the present petitioner, is Clause 4-D of Department of Food, Civil Supplies & Consumer Affairs Anaj Bhawan, Sector 39-C, Chandigarh (The Punjab Foodgrains Labour & Cartage Policy-2024), (hereinafter referred to as “the Policy of 2024), contents whereof are extracted hereinafter:-

4. General Qualification:-

D. “Tenderer shall upload CIBIL Score of 600 or above OR CMR Rank of 6 or less (whichever is applicable) of not earlier than 30 days preceding the date of applications of tender. Any other credit rating (such as CRIF, Equifax, Experian etc.) shall not be accepted. In case CMR or CIBIL Score of the tenderer has been reported to be low due to some past irregular financial transaction and they have now cleared the irregularity with the concerned bank or have made an arrangement with the concerned bank for clearance of the said irregularity but the same is not being reflected in their CIBIL Score, i.e. the tenderer, who have cleared their irregularities with the Bank, may be considered for allotment of work subject to the submission of



“Irregularity Clearance Certificate” from all the concerned bank/leader of the consortium of the banks of the tenderer in which he/she maintains the account. Further, in case, the CIBIL Score of the tenderer is reported as 'NH' or '-ve', due to non-financial credit history of tenderer, the tenderer shall have to upload the UDIN verified CA certificate on Positive Net Worth Certificate of Bidder/Tenderer.”

4. It is apparent from the reading of supra extracted Clause 4-D of the tender condition, as embodied in Annexure P-1, that though there are two conditions which required to be satisfied at the instance of the tenderer concerned, inasmuch as, there is a requirement that the tenderer is required to be uploading/manifesting the CIBIL Score upto 600 or above, and, in the alternative thereto, the tenderer is required to be uploading CMR rank 6 or less (whichever is applicable), but not less than 30 days preceding the date of applications of tender. Now significantly the bracketed words which succeed the said tender conditions i.e. (whichever is applicable), as carried, within the supra extracted opening sentence of Clause 4(D) of the said Policy of 2024, become the touchstone for therefroms their discernments being made, as to which of the two conditions are to be made applicable to the present petitioner.

5. The necessity of uploading a CIBIL of 600 or more, would arise in case the petitioner was not registered as an MSME, but when the present petitioner who is evidently registered as an MSME, as the said fact is not controverted also by the learned counsel for the petitioner/company(ies), therebys, the other condition, inasmuch as, the present petitioner uploading CMR rank 6 or less, was applicable to the present petitioner.



6. In other words, the supra bracketed coinage, thus, existing in clause 4(D) of the said policy, inasmuch as (whichever is less), does create the relevant segregation between the necessity of the tenderer uploading CIBIL Score of 600 rather with the other condition of the tenderer uploading CMR rank of 6 or less. If so, the said bracketed coinage, thus, thereby makes it not incumbent upon the MSME tenderer to satisfy both the conditions, nor the said duo of conditions are to be working as alternate(s) to each other. However, the applicability of the apposite condition to the non MSME tenderer, thus in terms of the said bracketed coinage, rather is, operational, but only insofar as the first condition is concerned. However, *vis-a-vis* an MSME tenderer, the other prior condition qua the tenderer uploading CMR Rank of 6 or less, becomes operational.

7. Resultantly so, since the present petitioner/company(ies) is registered as an MSME, thereby, the petitioner/company(ies) was not required to upload CIBIL Score of 600. Contrarily, when the present petitioner/company(ies), being registered as an MSME, was required to upload CMR rank of 6 or less, but since the present petitioner/company(ies) CMR rank was taken as 7. Therefore, thereby when otherwise the requirement of the applicable apposite tender condition, is that, the CMR rank is to be 6 or less. Consequently, when the tender condition as applicable to the present petitioner is not satisfied. Moreover since the present petitioner in terms of supra extracted Clause 4(D) of the said policy of 2024, could yet have undone the said irregularity, as such, through his submitting an irregularity clearance certificate from all concerned, but when the petitioner/company(ies) yet has failed to do so.



8. Though the learned counsel for the petitioner submits, that he did furnish the said irregularity clearance certificate, however since the tender condition required that the present petitioner/company(ies) uploads the irregularity clearance certificate, as becomes obtained from the concerned, which however, the present petitioner/company(ies) did not do.

9. Resultantly, therebys, this Court finds no merit in the instant writ petition, and, the same is hereby dismissed alongwith all pending application(s), if any.

(SURESHWAR THAKUR)
JUDGE

(VIKAS SURI)
JUDGE

17.02.2025

Anjal

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No