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High Court of Pn. & Hr., Chandigarh

CWP-23985-2023 (O&M)

M/s Maan Builders Pvt. Ltd.

..Vs.

State of Punjab and others

Present : Mr. Vishal Gupta, Advocate,  
for the petitioner.

Mr. Navdeep Chhabra, Senior DAG, Punjab.

\*\*\*\*

Learned Senior Deputy Advocate General, Punjab, seeks  
more time to file reply.

Adjourned to 13.03.2024.

In the meanwhile, operation of the impugned order dated  
22.06.2023 (Annexure P-18) shall remain stayed.

(RITU BAHRI)  
ACTING CHIEF JUSTICE

(NIDHI GUPTA)  
JUDGE

November 30, 2023

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**Government of Punjab**  
**Department of Public Works**  
**(Building and Roads-I Branch)**

**ORDER**

Whereas a tender for the work of Construction of 4 lane ROB at level crossing No.S-25/E-2 old (A-25) on NH-15(54) at Km 0.800 in District TarnTaran, Punjab was invited vide Tender Notice No.1 dated 17.05.2022 with bid due date of 16.06.2022. Technical bids were opened on 17.06.2022 and meeting for evaluation of technical bids was held on 12.07.2022. Further Financial bids were opened on 21.07.2022 and meeting of Financial evaluation committee was held on 28.07.2022 and M/s Maan Builders Pvt. Ltd. Panchkula was considered as L-1.

2. Afterwards, L-2 bidder filed CWP No. 16502 of 2022 regarding eligibility of L-1 bidder i.e. M/s Maan Builders Pvt. Ltd which was disposed of by Hon'ble Punjab & Haryana High Court vide order dated 29.07.2022 with the directions reproduced as under:-

"After arguing at length, learned senior counsel for the petitioner submits that the petitioner would approach the respondent-State of Punjab by filing a representation against the technical evaluation made by them within a period of three days. He prays that, respondent-State of Punjab be directed to consider the same expeditiously in accordance with law. Learned Assistant Advocate General appearing for the respondent-State of Punjab submits that in case such a representation is filed by the petitioner, the respondent-authority would thereafter take up and decide the same as far as possible within a period of seven days in accordance with law. In view of the statement made by learned counsel for the parties, the petition stands disposed of".

In compliance of above orders of Hon'ble Punjab and Haryana High, a representation dated 29.07.22 was submitted by M/s Gaanesh Kartikey Construction Private Ltd. In this regard a meeting was held under the Chairmanship of Chief Engineer (NH) in which both L-1 and L-2 bidders were present and both parties showed their satisfaction on documents shown and evaluation criteria adopted by technical evaluation committee.

Further, Principal Secretary, Public Works Department vide order dated 26.08.2022 constituted a three members committee to check the eligibility of L-1 bidder. Committee submitted its report on dated 09.09.2022 and Chief Engineer (NH) issued Memo No.43/NH/2021/3020/NH, dated: 13.09.2022 to Superintending Engineer, National Highway Circle, Amritsar and intimated that PSPW vide his note dated 09.09.2022 has ordered as under:-

- (i) The fresh bids may be invited.
- (ii) The agency be debarred as per provisions of RFP. (M/s Maan Builders pvt. Ltd has produced false information and indulged in fraudulent practice).

3. M/s Maan Builders Pvt. Ltd. was debarred for period of two years as per clause 4.1, 4.2 & 4.3 of contract agreement vide Govt. order No.20/54/2022-2BR1/2371-2374, dated 20.09.2022. In response to this, L-1 bidder i.e. M/s Maan Builders Pvt. Ltd filed a CWP No.29660 of 2022, which was disposed of by Hon'ble Punjab and Haryana high Court vide order dated 19.01.2023 with the directions reproduced as under:-

"This petition has been filed by the petitioner praying for quashing the orders dated 21.09.2022 (P-20); 20.09.2022 (P-26), passed by the Principal Secretary, Government of Punjab, Public Works Department (B&M); and 09.11.2022 (P-40), passed by the Chief Engineer, Punjab Roads and Bridges Development Board. We have heard learned counsel for the parties. Learned Assistant Advocate General, Punjab, on instructions from Nilkanth S. Avhad, Principal Secretary, Department of PWD (B&R), submits that the authority concerned, after re-visiting the entire issue, considering the representation/contentions of the petitioner, inquiry report and all other relevant documents, would issue a fresh show cause notice to the petitioner and take decision afresh in the matter, after affording it due opportunity of hearing. He further submits that the aforesaid exercise would be undertaken by the authority concerned, as early as possible. In response, learned senior counsel for the petitioner submits that as soon as the petitioner receives the show cause notice, it would file reply and cooperate in the proceedings by appearing before the authorities, as and when called. In view of the aforesaid statements made by learned counsel for the parties, the petition is disposed of, in terms thereof. However, in the light of the conceded position and the submissions made before this Court, the impugned orders dated 21.09.2022 (P-20), 20.09.2022 (P-26) and 09.11.2022 (P-40) shall be treated as non est".

4. In view of the submissions made before Hon'ble Punjab and Haryana High Court after revisiting the entire issue, a fresh show cause notice was issued to M/s Maan Builders Pvt. Ltd. and reply for the same was submitted by the bidder on dated 29.03.2023. Reply was examined and opportunity of hearing was given to the bidder on 05.06.2023 in the presence of Chief Engineer (NH), Superintending Engineer, National Highway Circle, Amritsar & Executive Engineer, National Highway Division No: 1, PWD B&R, Amritsar. M/s Maan Builders Pvt. Ltd defended his reply and explained that his company is eligible for condition of longest span length i.e. 50% of 74mtr. = 37mtr as per clause 2.2.2.2(iii)(a)(a1) of RFP. Further, he added that if Executive Engineer has issued any certificate/clarification regarding this, he is not responsible for the same.

Superintending Engineer, National Highway Circle, Amritsar explained that M/s Maan Builders Pvt. Ltd. has executed work of span length of 36.24mtr C/C of bearing and span length of 37.24mtr C/C of expansion joint against the requirement of 37mtr.C/C of bearing, which were required as per clause 2.2.2.2(iii)(a)(a1) of RFP along with Schedule-B in which it is

defined that length of railway portion= 76.08mtr (74 mtr C/C bearing) . Hence, bidder M/s Maan Builders Pvt. Ltd. does not qualify for the tender.

5. M/s Maan Builders Pvt. Ltd. has executed work of span length of 36.24mtr C/C of bearing and span length of 37.24mtr C/C of expansion joint, but while bidding for the above tender produced/uploaded false/fake documents (GAD) showing span length of 37.24mtr C/C of bearing and span length of 38.24mtr C/C of expansion joint in reference to clause 2.2.2.2(iii)(a)(a1) of RFP. Thus M/s Maan Builders Pvt. Ltd. indulged in fraudulent practice as per Clause 4.2 of RFP, which is reproduced as under:

*“Without prejudice to the rights of the Authority under Clause 4.1 hereinabove and the rights and remedies which the Authority may have under the LOA or the Agreement, or otherwise if a Bidder or Contractor, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, or after the issue of the LOA or the execution of the Agreement, such Bidder shall not be eligible to participate in any tender or RFP issued by the Authority during a period of 2 (two) years from the date such Bidder, or Contractor, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.”*

So, as per clause 4.1, 4.2 & 4.3 of contract agreement M/s Maan Builders Pvt. Ltd. is not eligible to participate in any tender or RFP issued by the Authority during a period of 2 (two) years from 09.09.2022.

The erring officials of PWD (B&R), Er. Manpritam Singh, the then Executive Engineer, National Highway Division Ferozpur and Er. Navdeep Singla, Sub Divisional Engineer, National Highway Sub Division, Moga have been issued charge sheets under Rule-8 of Punjab Civil Services(Punishment and Appeal) rules 1970 for major penalty proceedings for signing the forged GAD of 37.24mtr which was actually 36.24mtr.

6. As per clause 4.2 (FRAUD AND CORRUPT PRACTICES) of contract agreement the AUTHORITY has right to debar the contractor for two years without giving any personal hearing. However, in view of the submissions made before Hon'ble Punjab and Haryana High Court, after revisiting the entire issue, show cause notice was issued and opportunity to respond and of hearing was given to the M/s Maan Builders Pvt. Ltd. on 05.06.2023.

7. Thus, from the above facts it is clear that M/s Maan Builders Pvt. Ltd has violated the clause 4.1, 4.2 & 4.3 of contract agreement, therefore the Govt. order issued vide Letter No.20/54/2022-2BR1/2371-2374, dated 20.09.2022 found to be correct and M/s Maan Builders Pvt. Ltd shall remain ineligible to participate in any tender or RFP issued by the Authority during a period of 02 (two) years from original orders issued on 09.09.2022. In addition to this, vide order dated 19.01.2023, Hon'ble Punjab and Haryana High Court has directed that impugned orders dated 21.09.2022 (P-20), 20.09.2022 (P-26) and 09.11.2022 (P-40) shall

be treated as *non est*, so in consideration of this the dabar period already undergone shall be debited from the total period of 02 (two) years.

8. This order is being issued with the approval of the competent authority.

Dated, Chandigarh, the,

22<sup>nd</sup> June, 2023

Nilkanth S. Avhad, I.A.S.

Secretary to Government of Punjab

Department of Public Works (B&R)

Endst.No.20/54/2022-2BR1/ 3147 - 3149

Dated, Chandigarh, the, 23/6/2023

A copy of the above is forwarded to the followings for information and necessary action:-

1. Chief Engineer (N.H.), Punjab, Public Works Department (B&R Branch), Patiala with reference to their Memo No.1852, dated 12.05.2023;
2. Chief Engineer, PRBDB, SAS Nagar with reference to their Memo No.792, dated 20.04.2023;
3. M/s Maan Builders, SCO-44, Sector-12, Panchkula-134112 (through Chief Engineer, PRBDB, SAS Nagar).

M. S. Avhad  
23/6  
Superintendent

FP  
20/9/2022

ਪੰਜਾਬ ਸਰਕਾਰ  
ਲੋਕ ਨਿਰਮਾਣ ਵਿਭਾਗ  
(ਇਮਾਰਤਾਂ ਤੇ ਸੜਕਾਂ-1 ਸ਼ਾਖਾ)

ਹੁਕਮ

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28/9/22  
CE/PA/BOB  
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The construction of 4 Lane ROB at Level crossing No.S-25/E-2 old (A-5) on NH-54 at Km 0.800 in district Tarn Taran ਵਿੱਚ RFP ਦੀ ਧਾਰਾ-4 ਦੇ ਕਲਾਜ਼ 4.1, 4.2 ਅਤੇ 4.3 ਅਨੁਸਾਰ M/s Maan Builders, SCO-3, 2<sup>nd</sup> Floor, Sector-11, Panchkula ਨੂੰ 02 ਸਾਲ ਦੇ ਸਮੇਂ ਲਈ ਡੀਬਾਰ ਕੀਤਾ ਜਾਂਦਾ ਹੈ।

2. ਇਹ ਹੁਕਮ ਸਮਰੱਥ ਅਥਾਰਟੀ ਦੀ ਪ੍ਰਵਾਨਗੀ ਉਪਰੰਤ ਜਾਰੀ ਕੀਤੇ ਜਾਂਦੇ ਹਨ।

ਮਿਤੀ, ਚੰਡੀਗੜ੍ਹ,  
20.09.2022

ਅਨੁਰਾਗ ਵਰਮਾ, ਆਈ.ਏ.ਐਸ.  
ਪ੍ਰਮੁੱਖ ਸਕੱਤਰ, ਪੰਜਾਬ ਸਰਕਾਰ,  
ਲੋਕ ਨਿਰਮਾਣ ਵਿਭਾਗ (ਭ ਤੇ ਮ)

ਪਿੰ.ਅੰ.ਨੰ:20/54/2022-ਏਸ1(2)/ 2373

ਮਿਤੀ, ਚੰਡੀਗੜ੍ਹ, 20/9/22

ਇੱਕ ਉਤਾਰਾ ਹੇਠ ਲਿਖਿਆ ਨੂੰ ਸੂਚਨਾ ਅਤੇ ਲੋੜੀਂਦੀ ਕਾਰਵਾਈ ਹਿੱਤ ਭੇਜਿਆ ਜਾਂਦਾ ਹੈ:-

1. ਮੁੱਖ ਇੰਜੀਨੀਅਰ (ਹੈੱ.ਕੁ.), ਪੰਜਾਬ, ਲੋਕ ਨਿਰਮਾਣ ਵਿਭਾਗ (ਭ ਤੇ ਮ), ਪਟਿਆਲਾ;
2. ਮੁੱਖ ਇੰਜੀਨੀਅਰ (ਨੈਸ਼ਨਲ ਹਾਈਵੇ), ਪੰਜਾਬ, ਚੰਡੀਗੜ੍ਹ;

3. ਮੁੱਖ ਇੰਜੀਨੀਅਰ (ਪੀ.ਆਰ.ਬੀ.ਡੀ.ਬੀ.), ਲੋਕ ਨਿਰਮਾਣ ਵਿਭਾਗ, ਐਸ.ਏ.ਐਸ. ਨਗਰ ਨੂੰ ਲਿਖਿਆ ਜਾਂਦਾ ਹੈ ਕਿ ਇਸ ਮਾਮਲੇ ਵਿੱਚ ਅਗਲੇਰੀ ਲੋੜੀਂਦੀ ਕਾਰਵਾਈ ਕਰਕੇ ਸਰਕਾਰ ਨੂੰ ਸੂਚਿਤ ਕੀਤਾ ਜਾਵੇ।

4. M/s Maan Builders, SCO-3, 2<sup>nd</sup> Floor, Sector-11, Panchkula.

(ਮਾਰਫਤ: ਮੁੱਖ ਇੰਜੀਨੀਅਰ (ਹੈੱ.ਕੁ.), ਪੰਜਾਬ, ਲੋਕ ਨਿਰਮਾਣ ਵਿਭਾਗ (ਭ ਤੇ ਮ),  
ਪਟਿਆਲਾ)

ਸੁਪਰਡਟ  
2019

**Punjab Roads & Bridges Development Board**

SCF 61-62, Phase-2, Mohali 160 055

Enlistment No. PRBDB/Class-I/0626

Date : 09/04/2021

**CERTIFICATE FOR ENLISTMENT OF CONTRACTOR**

The matter regarding Enlistment of M/s Maan Builders as Class-I in category of Bridge works was considered in the meeting of Enlistment Authority on 01.04.2021. As per decision taken during the meeting of Enlistment Authority, your agency M/s Maan Builders is hereby enlisted for works in Punjab PWD (B&R) as per details given below:

1	Full Name & Address of Contractor/Agency	:	M/s Maan Builders SCO-3, II Floor Sector-11 Panchkula
2	Class of Enlistment	:	Class-I
3	Category	:	Civil – Bridge Works
4	Tendering Limit	:	Upto Rs. 10.00 Crores (Rs. Ten Crores only)
5	Jurisdiction	:	State of Punjab, Delhi & Shimla [For works by Punjab PWD (B&R) only]
6	Validity	:	02.04.2021 to 01.04.2023 (for a period of two years)

**Note:**

- The above enlistment is subject to the terms & conditions as specified in the Instruction for Enlistment of Contractor in Punjab PWD (B&R) – 2016 issued vide Department of Public Works, Govt. of Punjab Memo No. 8/75/2016-1BR3/786174/1-6 dated 29.06.2016.
- In case any discrepancy is found in the documents submitted by the agency at a later date, the enlistment/re-validation is liable to be cancelled.

*H. S. Bawa* 09/04/21  
Executive Engineer  
For Chief Engineer (PRBDB)

Endst. No. 595-98

Dated: 9-04-2021

A copy of above is forwarded to the following for information and necessary action:

- Chief Engineer (North), Punjab PWD (B&R), Patiala.
- Superintending Engineer, Construction Circle, Punjab PWD (B&R), Chandigarh.

**Punjab Roads & Bridges Development Board**  
SCF 61-62, Phase-2, Mohali 160 055

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3. All Superintending Engineers, Punjab PWD (B&R) except Electrical and Mechanical Circles.
4. M/s Maan Builders, SCO-3, II Floor, Sector-11, Panchkula

*Manoj Kumar* 09/04/21  
Executive Engineer  
*[Signature]*