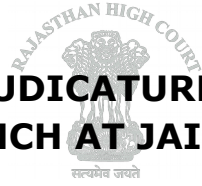




**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**



S.B. Civil Writ Petition No. 12314/2008

M/s Sant International Jewellers, 237, Johari Bazar, Jaipur
Through Its Proprietor Shri Sant Kumar, D-192, Jagdish Marg,
Bani Park, Jaipur

-----Petitioner

Versus

1. The State Of Rajasthan Through General Manager, District Industries Centre, Jaipur City, Jaipur
2. The Rajasthan State Industrial Development And Investment Corporation Ltd. Riico, Through Regional, Sitapura, Jaipur

-----Respondents

For Petitioner(s) : Mr. Saransh Saini
For Respondent(s) : Mr. Akshat Chaudhary

HON'BLE MR. JUSTICE AVNEESH JHINGAN

Order reserved on : 22/07/2024

Order pronounced on : 01/08/2024

1. This petition is filed seeking quashing of order dated 22.09.2008 rejecting the application of the petitioner for allotment of plot in Special Economic Zone (for short 'SEZ') Phase-II Sitapura Industrial Area, Jaipur.

2. The relevant facts are that applications were invited in June, 2008 for allotment of plots for setting up Gems & Jewelry industry in SEZ. The petitioner applied for Plot No.H1-138, measuring 500 square meter. Along with the application, 25% of the reserve price + 1% security was deposited. The balance amount was to be paid within sixty days of the allotment. For the five plots advertised, sixteen applications were received. In a meeting of the Committee constituted for allotment of plot, it revealed that reserve price of



Rs.2,000/- per square meter was effective from 01.06.2005 but for similar plot highest bid of Rs.4,709/- per square meter was received on 29.05.2007 and the reserve price was not revised. It was resolved that proposal for revising the reserve price should be got approved by the competent authority. It was decided to reject all applications and to refund the amount deposited. The plots were to be advertised again on the revised rates. In pursuance to the decision taken in the meeting, vide order dated 22.09.2008 the application of the petitioner was returned and the amount was refunded. On 04.11.2008, the rates for the plots in SEZ-I & SEZ-II were revised to Rs.4800/- per square meter. The present petition is filed aggrieved of rejection of the application.

3. Learned counsel for the petitioner submits that the respondent after having invited the application could not have revised the reserve price.

4. The contention raised by the counsel for the petitioner lacks merit.

5. The Supreme Court in case of **State of Punjab And Ors. Versus Mehar Din** reported in **AIR 2022 SC 1413** held as under:-

"18. This Court has examined right of the highest bidder at public auctions in umpteen number of cases and it was repeatedly pointed out that the State or authority which can be held to be State within the meaning of Article 12 of the Constitution, is not bound to accept the highest tender of bid. The acceptance of the highest bid or highest bidder is always subject to conditions of holding public auction and the right of the highest bidder is always provisional to be examined in the context in different conditions in which the auction has been held. In the present case, no right had accrued to the Respondent even on the basis of statutory provisions as being contemplated Under Rule 8(1)(h) of Chapter III of the Scheme of Rules, 1976 and in terms of the conditions of auction notice notified for public auction.

XXX XXX XXX XXX



26. This being a settled law that the highest bidder has no vested right to have the auction concluded in his favour and in the given circumstances under the limited scope of judicial review Under Article 226 of the Constitution, the High Court was not supposed to interfere in the opinion of the executive who were dealing on the subject, unless the decision is totally arbitrary or unreasonable, and it was not open for the High Court to sit like a Court of Appeal over the decision of the competent authority and particularly in the matters where the authority competent of floating the tender is the best judge of its requirements, therefore, the interference otherwise has to be very minimal.

27. To the contrary, the limited scope of judicial review for which interference could have been permissible to prevent arbitrariness, irrationality, bias, malafides or perversity, if any, in the approach of the authority while dealing with the auction proceedings, was never the case of the respondent at any stage. The High Court has recorded a finding to the contrary that the Appellants have failed to show any irregularity or illegality in the auction proceedings and in the absence whereof, the auction proceedings could not be held to be vitiated. The premise on which the High Court has proceeded in recording a finding, particularly, in the matters of auction of public properties is unsustainable in law and that apart, it is also not in conformity with the Scheme of auction of public properties as defined under Chapter III of Rules 1976.”

(emphasis)

The Supreme Court in case of **Haryana Urban Dev. Authority and Ors. Vs. Orchid Infrastructure Developers P. Ltd.** reported in **AIR 2017 SC 882** held as under:-

“14. It is a settled law that the highest bidder has no vested right to have the auction concluded in his favour. The Government or its authority could validly retain power to accept or reject the highest bid in the interest of public revenue. We are of the considered opinion that there was no right acquired and no vested right accrued in favour of the Plaintiff merely because his bid amount was highest and had deposited 10% of the bid amount. As per Regulation 6(2) of the Regulations of 1978, allotment letter has to be issued on acceptance of the bid by the Chief Administrator and within 30 days thereof, the successful bidder has to deposit another 15% of the bid amount. In the instant case allotment letter has never been issued to the Petitioner as per Regulation 6(2) in view of non-acceptance of the bid. Thus there was no concluded contract.”





6. Petitioner applied for plot in pursuant to the advertisement, even before the application could be processed, it was discovered that the reserve price was wrongly fixed and all the applications were rejected with a decision to re-advertise the plots on revised rates. Subsequently, the rates were revised.

7. The scope of interference in the tender matters is well defined over the years. A plausible decision is not to be interfered. It is not a case of discrimination or irrationality as all the applications were rejected with a decision to re-advertise the plot after revising the price. The petitioner would be at liberty to participate as and when the allotment of the plots is advertised.

8. Another aspect is that by filing an application for allotment, no vested right was created in favour of the petitioner. The Supreme Court in State of Punjab versus Mehar Din (supra) held that the right of the highest bidder is always provisional and the authorities are not bound to accept the highest bidder. It cannot be lost sight of that in the present case even the bidding stage had not come.

09. The petition is dismissed.

(AVNEESH JHINGAN),J

Simple Kumawat /01-S

Reportable:- **Yes**