



CHANDIGARH HOUSING BOARD

CHANDIGARH ADMINISTRATION UNDERTAKING
8, JAN MARG, SECTOR 9, CHANDIGARH -160 009, Ph: 4601827,

No. PA/CEO/CHB/2021/32

Dated, the 06.04.2021

ORDER

Whereas on 26.08.2020, one Sh. Manmohan Singh, an employee of M/s HST Enterprises, 216-A/14, Gautam Nagar, New Delhi- 110049 offered bribe to the Section Officer-I & II personally in the office of CHB for passing of bills related to the following two works at Maloya-I.

Sr. No.	Name of work	Allotment No. & Date	Letter	Agreement No.
1.	Providing Installation, Testing and Commissioning of Fire Fighting System in 1536 small flats in Maloya-I, Chandigarh (Gr.-II)	4249, 20.12.2017	Dated	09 of 2017-18
2.	Providing Installation, Testing and Commissioning of Fire Fighting System in 1216 small flats in Maloya-I, Chandigarh (Gr.-III)	4225, 20.12.2017	Dated	07 of 2017-18

2. And Whereas the said employee of M/s HST Enterprises was apprehended by the Vigilance Cell of the Chandigarh Administration and FIR No.05 dated 26.08.2020 was registered in Police Station-Vigilance, UT, Chandigarh.

3. And whereas, by above acts of his employee, M/s HST Enterprises has breached the following clauses of Article - 2 of the Integrity Agreement {Commitment of the Bidder(s)/Contractor(s)} contained in the contract agreement of the works, which is reproduced as under:

"2) *The Bidder(s)/ Contractor(s) commits himself to take all measures necessary to prevent corruption. He commits himself to observe the following principles during his participation in the Tender process and during the Contract execution:*

- a) *The Bidder(s)/ Contractor(s) will not, directly or through any other person or firm, offer, promise or give to any of the Principal/ Owner's employees involved in the Tender process or execution of the Contract or to any third person any material or other benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the Tender process or during the execution of the Contract.*
- c) *The Bidder(s)/ Contractor(s) will not commit any offence under the relevant IPC/PC Act. Further the Bidder(s)/ Contractor(s) will not use improperly, (for the purpose of competition or personal gain), or pass on to others, any information or documents provided by the Principal/Owner as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically."*

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4. And whereas, a Show Cause Notice vide letter No.327 dated 14.10.2020 was issued by the Superintending Engineer-II, Chandigarh Housing Board, with the approval of the undersigned, as to why the action, as per the provisions under clause 1 & 2 of Article 3 should not be initiated against M/s HST Enterprises as under:

- a) The contract for the two works mentioned in the SCN be determined and M/s HST Enterprises be excluded from future processing of the contract award processes.
- b) The entire amount of Performance Guarantee and Security Deposited for the above works be forfeited.

5. And whereas, in response to the Show Cause Notice, M/s HST Enterprises submitted reply vide letter No. HST/CHB/2020-21/598 dated 27.10.2020 and another letter of dated 27.10.2020 of its Advocate.

6. And whereas, personal hearings were also allowed by the undersigned to Shri T.S. Viridi, Proprietor of M/s HST Enterprises on 05.04.2021 and on 06.04.2021. Apart from oral submissions during these personal hearings, on 06.04.2021, M/s HST Enterprises submitted a written reply also.

7. And whereas, as per the written & oral submissions, M/s HST Enterprises stated that the criminal case in the matter was still going on and the proceedings in pursuance of the SCN should be stopped till a decision from the Court. It has also been stated that:

- a) M/s HST Enterprises is a proprietorship firm and the police did not find anything against the proprietor and has not named the proprietor in the FIR.
- b) To hide negligence and incompetency and to avoid its liability for claimed amount, the Chandigarh Housing Board has fabricated the false story to book the representative of the contractor in a false case. There was no breach of Terms & Conditions on the part of the Contractor particularly the contract expired on 31.07.2019 with the afflux of time.
- c) The works have already been completed on 31.07.2019 to the satisfaction of the CHB without any defect and the contractor has invoked the Arbitration Clause prior to the said incident on 26.08.2020.
- d) The Performance Guarantee was deposited for due performance of the contract and the contractor has completed the work without any defect. Similarly, the Security Deposit meant for rectification of defects, if notified within the defect liability period. The department never notified the defects in the executed work but in unequivocal terms admitted the completion and execution of allotted work.
- e) Release of partial payment of final bill, after the alleged incident of FIR, indicated that the contractor was not involved in the incident.
- f) There are about 1100 workers at various level working with the firm and any adverse action against the firm on the grounds which are not truthful will affect the lives of these employees and their families miserably.

8. And whereas, during the hearing on 05.04.2021 and on 06.04.2021, the Chief Engineer, Chandigarh Housing Board along with the Executive Engineer

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(Elect.) were present. The EE (Electrical) informed about the two works mentioned in the SCN that:

- a) Both the works mentioned in the Show Cause Notice dated 14.10.2020 have been completed on 31.07.2019. The said incidence dated 26.08.2020 took place when the final bills of both the works were submitted to Accounts Branch for pre-audit. Subsequently, final payments have been released with respect to both the works.
- b) The EMDs submitted at the time of Tender for these works have already been released on submission of the performance guarantee. Presently, the Performance Guarantee and amount of security deducted against both the works is as under: -

Sr. No.	Name of Work	Amount of Performance Guarantee (Rs.)	Amount of Security Deducted (Rs.)
1.	Providing Installation, Testing and Commissioning of Fire Fighting System in 1536 small flats in Maloya-I, Chandigarh (Gr.-II)	8,83,002	4,07,987
2.	Providing Installation, Testing and Commissioning of Fire Fighting System in 1216 small flats in Maloya-I, Chandigarh (Gr.III)	6,99,043	3,25,029
	Total	15,82,045	7,33,016

- c) As per agreement, the performance guarantees to be released after two years of completion certificate for the work. Since the work was completed on 31.07.2019, it cannot be released prior to 31.07.2021.
- d) As per the agreement, the Security Deposit of the contractor to be refunded on expiry of twelve months after the issue of the certificate of completion of work, or passing of the final bill, whichever is later. Since the completion has been recorded on 31.07.2019, the period of 12 months was over on 31.07.2020 and subsequently the final bills have also been passed and payments released in both the cases.

9. After going through the available record of Chandigarh Housing Board, M/s HST Enterprises written submissions dated 27.10.2020 and of 06.04.2021 and the oral submissions during the personal hearings, the undersigned is of the view that:

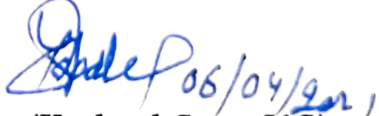
- a) Since the incident dated 28.08.2020 relates to corruption, it may not be appropriate to keep the matter pending till outcome of the criminal case and allow the contractor to participate in tendering process of the Chandigarh Housing Board. Though the criminal case against the employee of M/s HST Enterprises is pending in the competent court yet the allegations are serious in nature and in clear violations in Integrity Agreement.

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- b) M/s HST Enterprises cannot absolve itself with the plea that the proprietor of the firm has not been named in the FIR/Charge-Sheet. Since there is a relation of Principal –Agent between the employer and employee, the proprietor is responsible for the conduct of its employees'/representatives. M/s HST Enterprises is liable for all the actions/inactions/misconduct on the part of its employees.
- c) It is a rare case where the lady officer came forward and got the representative/employee of the contractor arrested for offering the bribe. Immediate and strict actions are warranted against the Contractor for the misconduct by his representative/employees in clear violation of the Agreement.
- d) Release of final payment, after the said incident on 26.08.2020, cannot be used as a certificate for innocence by the Contractor.
- e) Completion of work on 31.07.2019 does not release the Contractor from the contractual obligations and its liabilities under the Integrity Agreement. The Contractor is bound with the agreement and liable for forfeiture of the EMD/Performance Guarantee/Security Deposit in accordance with Terms & Conditions, in the event of the violations.

10. After considering the oral and written submissions of M/s HST Enterprises, the available records and facts produced before the undersigned, it is hereby decided that:

- a) M/s HST Enterprises is excluded from the future processing of the Contract Award Process in CHB and black-listed for a period of 03 years in accordance with the Terms & Conditions of the Integrity Agreement and the Policy on Blacklisting-2009 of the Chandigarh Administration issued vide notification dated 27.04.2009.
- b) No fresh work to be assigned to M/s HST Enterprises during the 03-year period of black listing. Further the works where tender process has already been done but Acceptance Letter / Letter of allotment are yet to issued, not be assigned to M/s HST Enterprises irrespective of its being preferred bidder. However, any EMD/Performance Guarantee submitted against such un-allotted works may be returned without any interest.
- c) The entire amounts of Performance Guarantees and Security Deposits against the two works mentioned in the SCN no. 327 dated 14.10.2020 are hereby forfeited.


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(Yashpal Garg, IAS)

Chief Executive Officer,

Chandigarh Housing Board, Chandigarh

To

**M/s HST Enterprises,
216-A/14, Gautam Nagar,
New Delhi-110049**

Endst.No.PA/CEO/CHB/2021/ 32

Dated, the 06.04.2021

Copy to the:

1. Chief Engineer, Chandigarh Housing Board, Chandigarh
2. Executive Engineer (Elect.), Chandigarh Housing Board, Chandigarh
3. Chief Accounts Officer, Chandigarh Housing Board, Chandigarh
4. Computer Incharge, Chandigarh Housing Board to upload on the website
5. PA to Chairman, Chandigarh Housing Board for kind information of worthy Chairman, Chandigarh Housing Board.


(Yashpal Garg, IAS)

**Chief Executive Officer,
Chandigarh Housing Board, Chandigarh**