

**(2010) 08 P&H CK 0444**

**High Court Of Punjab And Haryana At Chandigarh**

**Case No:** None

Ceigall Builders Pvt. Ltd.

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

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**Date of Decision:** Aug. 27, 2010

**Hon'ble Judges:** Ajay Kumar Mittal, J; Adarsh Kumar Goel, J

**Bench:** Division Bench

**Final Decision:** Dismissed

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### **Judgement**

Adarsh Kumar Goel, J.

This petition seeks quashing of condition No. 9 of the terms and conditions of Tender Notice, Annexure P-1, for carrying out work at Ludhiana-Ferozepur Road

2. Objection of the petitioner is that as per the tender conditions, there is following requirement:

Experience of having successfully completed similar works during last five years ending last day of months previous to the one in which applications are invited should be either of the following fully supported by the completion of performance certificate issued by the Engineer in charge of the concerned Government/Semi Government department;

1. Three similar completed works costing not less than Rs. 10 crore each.
2. Two similar completed works costing not less than Rs. 13 crores each.
3. One similar completed works costing not less than Rs. 20 crores each.

3. As against the above, in the guidelines issued by the Ministry of Road Transport and Highways dated 27.11.2009, Annexure P-2, eligibility could be permitted to those who had average annual turnover of 40% of the value of the contract during last five years. The petitioner fulfilled the said condition but did not fulfill the condition laid down in the tender notice.

4. We are unable to accept the prayer for quashing of tender condition. It is well settled that a condition of the tender is not open to judicial review unless the same is irrational. Reference may be made to judgments of the Hon"ble Supreme Court in [Tata Cellular Vs. Union of India](#), and [Global Energy Ltd. and Another Vs. Adani Exports Ltd. and Others](#), . In the present case, the work to be executed was of value of more than Rs. 25 crores. The impugned tender condition cannot be held to be irrelevant or irrational. Mere fact that in the general instructions of the Ministry of Road Transport and Highways, less stringent conditions have been specified, cannot operate as a bar against more stringent conditions being laid down.

5. Accordingly, the petition is dismissed.