

GAHC010063452024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/1719/2024

M/S BHOGJORA ENTERPRISE
A PROPRIETORSHIP FIRM
HAVING ITS REGISTERED OFFICE AT
BISHNU RABHA NAGAR, NOONMATI,
GUWAHATI, PIN- 781020.
REPRESENTED BY ITS PROPRIETOR
SHRI NIPU KALITA,
AGED ABOUT 57 YEARS,
S/O- LATE BHABA KANTA KALITA,
R/O- NOONMATI, B.R. NAGAR, GUWAHATI,
P.O.- NOONMATI, P.S.- NOONMATI,
DISTRICT- KAMRUP(M), ASSAM,
PIN- 781020.

VERSUS

INDIAN OIL CORPORATION LTD AND 4 ORS.
REPRESENTED BY ITS CHAIRMAN,
SCOPE COMPLEX, CORE-2, 7,
INSTITUTIONAL AREA, LODHI ROAD,
NEW DELHI, PIN- 110003.

2:THE EXECUTIVE DIRECTOR
INDIAN OIL CORPORATION LIMITED
BONGAIGAON REFINERY
DHALIGAON

DISTRICT- CHIRANG
ASSAM

PIN- 783385.

3:THE GENERAL MANAGER (CONTRACTS)
INDIAN OIL CORPORATION LIMITED
BONGAIGAON REFINERY
DHALIGAON
DISTRICT- CHIRANG

ASSAM
PIN- 783385.

4:THE DEPUTY GENERAL MANAGER (CONTRACTS)
INDIAN OIL CORPORATION LIMITED
BONGAIGAON REFINERY
DHALIGAON
DISTRICT- CHIRANG

ASSAM
PIN- 783385.

5:THE CHIEF MANAGER (HSE AND MED.) EIC
INDIAN OIL CORPORATION LIMITED
BONGAIGAON REFINERY
DHALIGAON
DISTRICT- CHIRANG

ASSAM
PIN- 783385

Advocate for the Petitioner : MR B D DAS

Advocate for the Respondent :

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

22.03.2024

- 1.** Heard Mr. B.D. Das, learned Senior Counsel learned counsel for the petitioner, who is assisted by Mr. H.K. Sharma, learned counsel.
- 2.** The petitioner's case is that pursuant to NIT dated 16.10.2023 for "Hiring & Operation of Customized Ambulance Services at Bongaigaon Refinery

Hospital, the petitioner was the L2 bidder and he was allowed to 2 (two) nos. of Ambulances at the rate of L1 bidder by Notice of Award dated 01.01.2024. Accordingly, the petitioner has deposited Rs. 1,55,844.64 (Rupees One Lakh Fifty-Five Thousand Eight Hundred Forty-Four and Sixty-Four Paise) only and placed orders for 2 (two) nos. of customized model ambulances before Force Motors dealer "Vardhaman Automobiles". Petitioner took loan amounting to Rs. 55,00,000.00 (Rupees Fifty-Five Lakhs) only from SBI. As per the terms of Notice of Award, the vehicle is to be supplied within 2 (two) months from the handing over of the site. As per Clause 14.1 of the Special Conditions of Contract, the petitioner is to provide services of 2 (two) ambulances not older than 2020 model for 2 (two) months and accordingly, the petitioner has been supplying the ambulances of 2021 model and the authorities have also accepted the same till date. As per dealer's letter dated 06.01.2024, minimum delivery time of specific customized model ambulance would be 3 (three) months from the date of booking and accordingly, the vehicles are to reach Guwahati on 25.03.2024. In these circumstances, the petitioner received a letter dated 07.03.2024 from the respondent no. 5 stating that the petitioner had failed to deliver the vehicles within 2 (two) months and same was in violation of Clause 14.1 of Special Condition of Contract.

3. To the best of the petitioner's knowledge, the L1 has also not delivered any vehicles. The petitioner apprehends that the Notice of Award dated 01.01.2024 may be cancelled by the authorities, without taking into consideration the petitioner's representation dated 17.03.2024, wherein he has apprised that the entire payment has been made to the dealer, by taking a loan amounting to Rs. 55,00,000.00 (Rupees Fifty-Five Lakhs) only. Petitioner prays for consideration of his representation dated 17.03.20234 and to allow him to

deliver the vehicles by 30th of this month, as there is a requirement of registration of the vehicles after reaching Guwahati.

4. On considering the prayer of the petitioner, this writ petition is disposed of at the Motion stage itself, with a direction to the respondent no.2 to take a decision on the petitioner's representation dated 17.03.2024. A copy of this order and the representation dated 17.03.2024 should be submitted to the respondent no.2 on or before 23.03.2024. No coercive action should be taken, till a decision is taken on the petitioner's representation. The above is however subject to the condition that today's order and the representation are submitted to the respondent no.2 on or before 23.03.2024.

5. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant