

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 6TH DAY OF APRIL 2015/16TH CHAITHRA, 1937

WP(C).No. 9901 of 2015 (K)

PETITIONER:

K.RAJAN, CHITHIRA TRANSPORTS,
RAJA BHAVAN, KALLUVATHUKKAL P.O.,
KOLLAM-691578.

BY ADVS.SRI.S.SANTHOSH KUMAR
SMT.P.LISSY JOSE.

RESPONDENT(S):

1. INDIAN OIL CORPORATION,
CORPORATE OFFICE, 3079/3, J.B TITO MARG,
SADIQ NAGAR, NEW DELHI-110 019,
REPRESENTED BY ITS MANAGING DIRECTOR.
2. DEPUTY GENERAL MANAGER (LPG),
INDIAN OIL CORPORATION LTD., MARKETING DIVISION,
KERALA STATE OFFICE, PANAMPILLY AVENUE,
PANAMPILLY NAGAR P.O.-682036.
3. THE CHIEF MANAGER (LPG-O)/KESO,
INDIAN OIL CORPORATION LTD. MARKETING DIVISION,
KERALA STATE OFFICE, PANAMPILLY AVENUE,
PANAMPILLY NAGAR P.O.-682036.

*ADDL.R4 TO R7 IMPEADED

4. ANAND OOMMEN THOMAS, S/O.P.O.THOMAS,
AGED 45 YEARS, RESIDING AT 10 B,
ABAD CHANCELLOR, NEAR BMC, THRIKKAKARA.P.O.,
KAKKANAND, ERNAKULAM DISTRICT.
5. SATHYASEELAN.V, PROPRIETOR,
M/S.SREENILAYAM TRANSPORTS, S/O.VISWAMBHARAN,
AGED 65 YEARS, RESIDING AT SREE NILAYAM, ATTINKUZHI,
KAZHAKOOTTAM.P.O., THIRUVANANTHAPURAM DISTRICT.
6. T.K.JAYANI, PROPRIETOR, M/S.KANNAN TRANSPORTS,
W/O.S.J.MOHAN, AGED 57 YEARS, RESIDING AT BHAVANA,
NEDUNGOLAM.P.O., PARAVOOR, KOLLAM DISTRICT.

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7. M/S.UPASANA TRANSPORTS,
REPRESENTED BY ITS MANAGING PARTNER,
SMT.PRIYA.L, W/O.SUVIN, AGED 40 YEARS,
RESIDING AT UPASANA, MEENAMBALAM,
PUTHENKULAM.P.O., KOLLAM DISTRICT.

ADDL.R4 TO R7 ARE IMPEADED AS PER
ORDER DATED 06.04.2015 IN IA.5131/2015.

R1 TO R3 BY SRI.M.GOPIKRISHNAN NAMBIAR, SC
ADDL.R4 TO R7 BY ADVS. SRI.BIJU BALAKRISHNAN
SRI.R.NIKHIL
SRI.BINU PAUL (NETTOOR)
SRI.PABDUL RAZAK

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-04-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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APPENDIX

PETITIONER(S)' EXHIBITS:

EXHIBIT P1: TRUE COPY OF PAGE NOS. 1 TO 21 OF NOTICE REF.NO.KESO/LPG-O/PT-10/2014-15 INVITING E-TENDER.

EXHIBIT P2: TRUE COPY OF TENDER DOCUMENTS SUBMITTED BY THE PETITIONER.

EXHIBIT P3: TRUE COPY OF REGISTRATION CERTIFICATE OF THE TRUCKS OFFERED BY THE PETITIONER.

EXHIBIT P4: TRUE COPY OF E-MAIL DATED 23.3.2015 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT P5: TRUE COPY OF CONSENT LETTER DATED 31.1.2015 ISSUED MRS USHA JOHNSON.

RESPONDENT(S)' EXHIBITS:

- NIL

/TRUE COPY/

/TRUE COPY

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P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 9901 of 2015

Dated this the 6th day of April, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers:

"i. To issue a writ of certiorari or any other appropriate writ or order quashing Ext.P4.

ii. To issue a writ of mandamus or any other appropriate writ or order directing the respondents to accept Ext.P2 tender and open the price bid submitted by the petitioner, in pursuance to Ext.P1, for consideration.

iii. To issue a writ of mandamus or any other appropriate writ or order declaring that the trucks offered by the petitioner in Ext.P2 tender document is not liable to be rejected for the non-submission of Consent/NOC as contemplated under Paragraph 1.20 of Ext.P1 notice inviting e-tender.

iv. To issue a writ of mandamus or any other appropriate writ or order prohibiting the respondents from taking further steps in pursuance to Ext.P1 notice inviting e-tender without opening and considering the price bid submitted by the petitioner."

2. The learned counsel for the petitioner submits that the bid submitted by the petitioner in response to the tender floated by the respondents has not been considered for want of

production of NOC which cannot be insisted in the case of the petitioner as the petitioner's trucks are running/operating for the respondent Company itself and as such, if at all any NOC is to be issued, it is to be issued only by the respondent Company and nobody else. The learned counsel appearing for the Additional respondents 4 to 7 who came to be impleaded as per I.A. 5139 of 2015 submits that many vital particulars have not been brought to the notice of this Court by the petitioner and that, the said respondents might be given an opportunity to submit their version. It is stated that some complaints have been preferred before the respondent Company in this regard.

3. The learned Standing Counsel for the respondent Company submits that, taking note of the particular facts and circumstances and the nature of grievance projected, the petitioner could be relegated to file a representation before the 2nd respondent within a specified time, upon which, the same will be considered and appropriate orders will be passed after hearing all concerned before the tender is finalized.

4. This Court finds that the said suggestion is a palatable

one and can be given effect to. Accordingly, the petitioner is at liberty to file a representation before the 2nd respondent within 'one week' from the date of receipt of a copy of the judgment, upon which the same shall be considered and appropriate orders shall be passed in accordance with law, after giving an opportunity of hearing to the petitioner and the additional respondents 4 to 7 and other interested parties, if any, before the tender proceedings are finalized. The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the concerned respondent for further steps.

The writ petition is disposed of.

sd/-

**P.R. RAMACHANDRA MENON,
JUDGE.**

kp/-