

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 21ST DAY OF JULY 2015/30TH ASHADHA, 1937

WP(C).No. 12550 of 2015 (P)

PETITIONER :

V.V.PANKAJAKSHAN NAIR,
G 3, EDEN GARDEN HOUSING SOCIETY, ADARSH NAGAR,
AIRPORT ROAD, CHICKALIM, VASCODAGAMA,
GOA-403 711.

BY DR.K.P.SATHEESAN,SENIOR ADVOCATE
ADVS.SRI.M.R.JAYAPRASAD
SRI.P.MOHANDAS (ERNAKULAM)
SRI.ANOOP.V.NAIR
SRI.S.VIBHEESHANAN
SRI.N.MANU THAMPI

RESPONDENT(S):

1. INDIAN OIL CORPORATION LTD.,
REPRESENTED BY ITS DEPUTY GENERAL MANAGER (LPG),
KERALA STATE OFFICE, PANAMPALLY AVENUE,
PANAMPALLY NAGAR, KOCHI-682 036.
2. THE SENIOR MANAGER (LPG -OPS),
INDIAN OIL CORPORATION LTD., (MARKETING DIVISION),
KERALA STATE OFFICE, PANAMPALLY AVENUE,
PANAMPALLY NAGAR, KOCHI-682 036.
3. THE DEPUTY GENERAL MANAGER (LPG),
INDIAN OIL CORPORATION LTD., KERALA STATE OFFICE,
PANAMPALLY AVENUE, PANAMPALLY NAGAR, KOCHI-682 036.

R1 TO R3 BY ADVS. SRI.M.GOPIKRISHNAN NAMBIAR
SRI.P.GOPINATH
SRI.P.BENNY THOMAS
SRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SRI.KURIAN THOMAS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 21-07-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 : TRUE OF THE CREDENTIAL BID PUBLISHED BY THE FIRST RESPONDENT DUE ON 10-03-2015.
- EXT.P2 : TRUE OF THE CERTIFICATE ISSUED BY THE CHIEF MANAGER (LPG OPERATIONS) OF THE FIRST RESPONDENT COMPANY DT. 1-3-2012.
- EXT.P3 : TRUE OF THE INFORMATION RECEIVED BY THE PETITIONER THROUGH EMAIL DT. 9-4-2015.
- EXT.P4 : TRUE OF THE OFFICE MEMORANDUM ISSUED BY GOVERNMENT OF INDIA DT. 25-4-2013.
- EXT.P5 : TRUE OF THE RELEVANT PAGES OF THE PUBLIC PROCUREMENT BILL 2012.
- EXT.P6 : TRUE OF THE CERTIFICATE ISSUED BY THE NATIONAL SMALL INDUSTRIES CORPORATION LIMITED TO THE PETITIONER DT. 5-3-2015.
- EXT.P7 : TRUE OF THE EMAIL SENT BY THE PETITIONER TO THE RESPONDENT DT. 9-4-2015.
- EXT.P8 : TRUE COPY OF THE ORDER DATED 17/01/2014 ISSUED BY THE 3RD RESPONDENT
- EXT.P9 : TRUE COPY OF THE COMMUNICATION GIVEN BY THE 3RD RESPONDENT TO THE PETITIONER THROUGH EMAIL DATED 9/12/2014
- EXT.P10 : TRUE COPY OF THE ORDER DATED 25/02/2015 IN WRIT PETITION NO.7836/2015 OF THE HON'BLE HIGH COURT OF KARNATAKA
- EXT.P11 : TRUE COPY OF THE LETTER SENT THROUGH EMAIL DATED 26/02/2015
- EXT.P12 : TRUE COPY OF THE LETTER SENT BY THE PETITIONER TO THE RESPONDENTS THROUGH EMAIL ON 10/03/2015
- EXT.P13 : TRUE COPY OF THE WORK ORDER GIVEN BY INDANE BOTTLING PLANT, ASSAM OIL DIVISION DATED 1/5/2015

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

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P.A.TO JUDGE

K. VINOD CHANDRAN, J

W.P(C) No. 12550 of 2015

Dated this the 21st day of July, 2015

J U D G M E N T

The petitioner, a tenderer pursuant to Ext.P1 notification is aggrieved with Ext.P3 order. Ext.P3 order rejects the technical evaluation for the reason “rejected”. The learned Standing Counsel for the respondent Corporation, however, would rely on the detailed statement filed by the respondent to contend that the Corporation would be able to establish before this Court that the petitioner would not qualify in the technical evaluation. However, it is not for this Court to make such evaluation and it is trite that an order passed by the authority, the State or its instrumentality cannot be permitted to be supplemented by counter affidavits and statements when a challenge is made to such orders. Reliance can be placed on a decision reported in *Mohinder Singh Gill v. Chief Election Commissioner* [(1978) 1 SCC 405]. The learned Standing Counsel would urge that in fact the files of the evaluation committee reveals the reasons.

2. In such circumstance Ext.P3 is set aside and the reasons for rejection at the technical evaluation shall be communicated within one week from the date of receipt of a certified copy of this judgment. The petitioner would be left his remedy to challenge the same, if so advised.

Writ petition is disposed of.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

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P.A to Judge