

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 28TH DAY OF JULY 2015/6TH SRAVANA, 1937

WP(C).No. 13150 of 2015 (P)

PETITIONER(S):

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

**BY DR.K.P.SATHEESAN, SENIOR ADVOCATE.
ADVS. 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, PANAMPILLY AVENUE,
PANAMPILLY NAGAR, KOCHI-682 036.**
- 2. THE SENIOR MANAGER (LPG-OPS),
INDIAN OIL CORPORATION LTD, (MARKETING DIVISION),
KERALA STATE OFFICE, PANAMPILLY AVENUE,
PANAMPILLY NAGAR, KOCHI-682 036.**
- 3. THE DEPUTY GENERAL MANAGER (LPG),
INDIAN OIL CORPORATION LTD, KERALA STATE OFFICE,
PANAMPILLY AVENUE, PANAMPILLY NAGAR, KOCHI-682 036.**
- 4. C.M.KUNJUMOHAMMED,
ENKAY ASSOCIATES, INTUC ROAD,
NETTOOR P.O., KOCHI-682 040.**

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

R4 BY ADV. SRI.T.K.RADHAKRISHNAN.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 28-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT.P1. TRUE COPY OF THE CREDENTIAL BID PUBLISHED BY THE FIRST RESPONDENT DUE ON 19/03/2015.
- EXT.P2. TRUE COPY OF THE CERTIFICATE ISSUED BY THE CHIEF MANAGER (LPG OPERATIONS), OF THE FIRST RESPONDENT COMPANY DATED 01/03/2012.
- EXT.P3. TRUE COPY OF THE INFORMATION RECEIVED BY THE PETITIONER THROUGH EMAIL DATED 22/04/2015.
- EXT.P4. TRUE COPY OF THE OFFICE MEMORANDUM ISSUED BY GOVERNMENT OF INDIA DATED 25/04/2013.
- EXT.P5. TRUE COPY OF THE RELEVANT PAGES OF THE PUBLIC PROCUREMENT POLICY FOR MICRO AND SMALL ENTERPRISES PUBLISHED BY THE GAS AUTHORITY OF INDIA LTD.
- EXT.P6. TRUE COPY OF THE CERTIFICATE ISSUED BY THE NATIONAL SMALL INDUSTRIES CORPORATION LTD TO THE PETITIONER DATED 05/03/2015.
- EXT.P7. TRUE COPY OF THE TENDER DOCUMENT ISSUED ON BEHALF OF THE FIRST RESPONDENT (REFINERIES DIVISION).
- EXT.P8. TRUE COPY OF THE EMAIL SENT T THE PETITIONER TO THE 3RD RESPONDENT DATED 22/04/2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

PA. TO JUDGE

rs.

K. VINOD CHANDRAN, J

W.P(C) No.13150 of 2015

Dated this the 28th 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.P8 order. Ext.P8 order rejects the technical evaluation for the reason “rejected”. The learned Standing Counsel for the respondent Corporation, however, would 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.P8 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)

jma

//true copy//

P.A to Judge