

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 5470 of 2015 (O&M)

Date of Decision: - 30.9.2015

Dike Ram Chauhan

...Petitioner.

Versus

Indian Oil Corporation Ltd. and others

....Respondents.

CORAM:- HON'BLE MR. JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: - Mr. Sandeep Wadhawan, Advocate for the petitioner.

Mr. Ashish Kapoor, Advocate for respondents No. 1 to 3.

Mr. Krishan Kumar, Advocate for respondent No. 4.

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S.J.Vazifdar, J (Oral)

1. In the present petition, the petitioner has challenged the rejection of a technical bid for transport of petroleum projects from Kullu (Himachal Pradesh) to Ambala. Clause 17 of the terms and conditions of the tender reads as under: -

“Clause 17: Tank trucks quoted in this tender should have all valid documents such as explosive license, registration certificates etc., at the time of submission of bids. **Temporary explosive permission will not be considered.** The genuineness of explosive license is to be mandatorily verified by State Office from www.peso.gov.in and that of TT registration from state specific site (where ever applicable) on internet before issuance of LOI. (Both during award of transport contract and TT replacement.”

It is submitted that the petitioner is a dealer of the answering-respondent. In the present case petitioner offered 5 TTs. Last date of submission of bids qua the present tender was 1.1.2015. All the 5TT's, which the

petitioner had offered were having Temporary explosive permission therefore the technical bid of the petitioner, was rejected.”

2. Admittedly, the petitioner did not possess a permanent explosive permission at the relevant time. The last date for submission of tenders was 01.01.2015. The day prior thereto i.e. 31.12.2014, the petitioner obtained a temporary explosive permission. Thereafter, a permanent explosive permission was obtained only a week later i.e. on 08.01.2015. Thus, on the relevant date, the petitioner did not meet the eligibility criteria. The contract is for the transport of petroleum products. It is difficult to hold that the term is irrational and unreasonable. The rejection of the technical bid of the petitioner as non-responsive, therefore, cannot be defaulted.

3. Reliance is placed upon the fact that in the State of Rajasthan the said clause was amended. The amendment however, was prior to the last date of submission of tenders. The same is pursuant to a representation from the Truck(s) owners Union. Firstly, in the present petition, there was no such request or representation. Secondly, in the State of Rajasthan, the amendment was prior to the last date which makes all the difference. Thus, the bidder who had a temporary explosive permit in Rajasthan could not be held to have been ineligible in view the amendment.

4. On behalf of the petitioner, it is stated that the work orders in respect of 10 tankers have still not been issued. Needless to add that it will be open to the respondent-Indian Oil Corporation to consider whether or not to issue work orders in respect of those 10 tankers or whether to call for fresh

tenders in respect thereof if binding agreements have not already been entered into with any other party. It shall be open to the petitioner to file a representation before the respondent-Indian Oil Corporation in that regard and the said respondent shall consider the same in accordance with law.

5. Disposed of.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

(TEJINDER SINGH DHINDSA)
JUDGE

30.9.2015

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