

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Civil Writ Petition No. 8198 of 2015 (O&M)

Date of decision : 23.07.2015

M/s Mannat Oil Carrier

.....Petitioner

Versus

Indian Oil Corporation and others

....Respondents

**CORAM:- HON'BLE MR. JUSTICE HEMANT GUPTA
HON'BLE MRS. JUSTICE LISA GILL**

Present: Mr. T.P.S. Tung, Advocate for
for the petitioner.

Mr. Ashish Kapoor, Advocate

HEMANT GUPTA, J.

Challenge in the present writ petition is to the communication dated 16.04.2015 (Annexure P-7) whereby Letter of Intent issued to the petitioner granting transportation contract of 13 tank trucks was withdrawn.

The respondents invited tenders for transportation of bulk petroleum products for which the petitioner submitted its tender on 22.11.2014 quoting 14 tank trucks as available for transportation of bulk petroleum products. An undertaking furnished alongwith tender documents was that none of the tank trucks stands blacklisted but it was found that one tank truck No. HR 55E1254 was blacklisted by another oil company i.e. Hindustan Petroleum Corporation Limited (HPCL), However, Letter of Intent was issued in respect of 13 tank trucks.

Subsequently, the Letter of Intent has been withdrawn for the reason

that the petitioner has concealed the fact of tank truck being blacklisted and has not disclosed the same at the time of submission of tender.

Learned counsel for the respondent relies upon the judgment of this Court in Civil Writ Petition No. 4657 of 2015 (M/s Paraveer Auto Fuels versus Indian Oil Corporation Ltd. and others) to contend that quoting the tank truck, which is blacklisted, disentitles a tenderer for allotment of the contract.

On the other hand, learned counsel for the petitioner argued that the blacklisted tank truck was purchased in February, 2014 by the petitioner from M/s Kotak Mahindra Bank and the ownership was transferred in favour of the petitioner in February, 2014, therefore, the blacklisted tank truck was rightly excluded from the grant of contract by the respondents initially but letter of intent has been wrongly withdrawn. It is argued that the petitioner was not aware of blacklisting of truck; therefore, the same was quoted as one of the trucks available for transportation. It was bona-fide action; therefore, the penal consequence cannot fall upon the petitioner.

Mr. Kapoor has filed additional affidavit, inter alia, asserting that the petitioner was aware of blacklist status of tank truck in question as such information was shared by HPCL on 17.10.2004 i.e. prior to publication of the tender on 14.11.2014. Mr. Kapoor argued that the petitioner cannot take shelter of the fact that the blacklisting of the tank truck purchased was not known to him.

We are of the opinion that we cannot draw presumption that the petitioner was aware of the blacklisting of the tank truck purchased by the

petitioner from M/s Kotak Mahindra Bank. The purchase from M/s Kotak Mahindra Bank suggest that the previous owner having taken financial assistance from the Bank but was not able to pay its installment and, therefore, the tank truck might have been sold by M/s Kotak Mahindra Bank and purchased by the petitioner. This Court cannot draw any presumption in terms of Section 114 of the Evidence Act that the petitioner was aware of blacklisting of the tank truck. There is no mechanism to share information of blacklisting of tank trucks with general public. Therefore, mere fact that the petitioner has quoted blacklisted tank truck, which was later on purchased by him cannot be a ground to withdraw the Letter of Intent issued to the petitioner in respect of other tank trucks.

We find that the action of the respondents in withdrawing the Letter of Intent without knowledge of the one tank truck blacklisted when it was owned by another owner, cannot form reasonable basis for withdrawal of Letter of Intent.

Consequently, we set aside the communication dated 16.04.2015 subject to the condition that the petitioner shall produce documents of purchase from M/s Kotak Mahindra Bank before the respondents.

The writ petition stands disposed of accordingly.

(Hemant Gupta)
Judge

(Lisa Gill)
Judge

July 23, 2015
rts