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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: 21.09.2015

W.P.(C) 6593/2015

M/S JUDGE ROAD LINES

..... Petitioner

versus

**DEPUTY GENERAL MANAGER-LPG NORTH ZONE INDIAN OIL
CORPORATION & ANR**

..... Respondents

Advocates who appeared in this case:

For the Petitioners : Mr Awnish Kumar

For the Respondents : Mr Sanjeev Narula and Mr Ajay Kalra, for Union of India.

CORAM:

HON'BLE MR JUSTICE BADAR DURREZ AHMED

HON'BLE MR JUSTICE SANJEEV SACHDEVA

J U D G M E N T

BADAR DURREZ AHMED, J (ORAL)

**W.P.(C) 6593/2015 & CM Nos. 12020/2015(directions) &
13821/2015(impleadment)**

1. The petitioner is aggrieved by the fact that he is not being considered for the tender, which was issued by the notice dated 01.09.2014. We have also heard the learned counsel for the applicant in the intervention application, who has opposed this petition tooth and nail. It so transpires that the entire controversy is related to clause 11 of the General Terms and Conditions of the subject tender. The said clause gave the specification of

tank trucks. It provided that the tank trucks offered against this tender should conform to the specification mentioned in the Motor Vehicles Act, 1988 as applicable from time to time, and be equipped to transport bulk LPG. It was also required to conform to the condition stipulated in clause 11.

2. According to the petitioner, the tank trucks offered by the petitioner conform to the specifications mentioned in the Motor Vehicles Act. A reference was made to the notification being S.O. No.728(E) dated 18.10.1996 issued by the Central Government under Section 58(1) of the Motor Vehicles Act, 1988. The said notification, to the extent relevant reads as under:-

“S.O.728(E). – In exercise of the powers conferred by sub-section (1) of section 58 of the Motor Vehicles Act, 1988 (59 of 1988), and in supersession of the notification of the Government of India in the Ministry of Surface Transport, No.S.O.479(E), dated the 4th July, 1996, the Central Government hereby specifies that in relation to the transport vehicles (other than motor cabs) of various categories detailed in the Schedule below, the maximum gross vehicle weights and the maximum safe axle weight of each axle of such vehicles shall, having regard to the size, natures and number of tyres and maximum weight permitted to be carried by the tyres as per rule 95 of the Central Motor Vehicles Rules, 1989, be –

(i) vehicle manufacturers rating of the gross vehicle weight and axle weight respectively for each make and model as duly certified by the testing agencies for compliance of rule 126 of the Central Motor Vehicles Rules, 1989, or

(ii) the maximum gross vehicle weight and the maximum safe axle weight of each vehicle respectively as specified in the Schedule below for the relevant category, or

(iii) the maximum load permitted to be carried by the tyre(s) as specified in the rule 95 of the Central Motor Vehicles Rules, 1989, for the size and number of the tyres fitted on the axle(s) of the relevant make and model, whichever is less:

Provided that the maximum gross vehicle weight in respect of all such transport vehicles, including multi-axle vehicles shall not be more than the sum total of all the maximum safe axle weight put together subject to the restrictions, if any, on the maximum gross vehicle weight given in the said Schedule:-

SCHEDULE

	TRANSPORT VEHICLES CATEGORY	MAX GVW TONNES	MAXIMUM SAFE AXLE WEIGHT
1	2	3	4

I Rigid Vehicles

XXXX XXXX XXXX XXXX

II Semi Articulated Vehicles

(i) XXXX XXXX XXXX XXXX

(ii) Two Axle Tractor 35.2

Tandem Axle Trailer

Tractor :

2 Tyres on front axle

6 tonnes on Front Axle

4 tyres on rear axle

10.2 tonnes on Rear Axle

Trailer:

8 tyres on tandem axle

19 tonnes on Tandem axle

XXXX XXXX XXXX XXXX XXXX

The details of bulk LPG tank trucks being offered, are as follows:-

TENDER NO. LPG/LOGS/TT/NR/2014/A

DETAILS OF BULK LPG TANK TRUCKS BEING INDUCTED

(Enclosure to Letter No. LPG/LOGS/TT/NR/2014/A dated 24.12.2014)

SL NO	BIDDER NAME	TT REGISTRATION NUMBER	MODEL	CAPACITY-KGS
1	JUDGE ROADLINES	HR577072	2007	18000
2	JUDGE ROADLINES	HR576474	2007	18000
3	JUDGE ROADLINES	BR31C6210	2006	18000

3. The petitioner has also annexed certificates of registration of each of the abovementioned motor vehicles. Since they are similar, we are only referring to the Registration Certificate of the motor vehicle registered as HR57 6474. It indicates that the make is of 'Ashok Leyland Limited' and the maker classification has been indicated to be 'Ashok Leyland 4018'. The Gross Vehicular Weight (GVW) has been shown as 35,200 kg.

4. The petitioner has also submitted certificates from the Regional Authority Faridabad to indicate that the motor vehicles bearing registration Nos. HR 57 6474 and HR57 7072 are in conformity with the said

notification No.728(E) dated 18.10.1996 issued under Section 58(1) of the said Act. The GVW indicated is 35,200 kgs. Thus, it is the contention of the petitioner that the tank trucks offered against the subject tender are in conformity with the specifications mentioned in the said Act and consequently, their bid should also be considered.

5. The learned counsel appearing on behalf of IOCL submits that he has no difficulty in considering the bid of the petitioner in respect of the said three trucks inasmuch as, apparently, the petitioner has the requisite registration certificates as also certificates indicating that the tank trucks offered by him conform to the GVW of 35,200 kgs. The learned counsel also submitted that an application for clarification had been filed in respect of the judgment dated 06.01.2015 in writ petition No.8435/2014 but the same had been dismissed on 31.07.2015. The learned counsel for IOCL submits that their concern is only with the conformity of the tank trucks with the Motor Vehicles Act, as submitted in clause 11 of the General Terms and Conditions of the subject tender.

6. The learned counsel for the intervener submitted that the make and model of the petitioner's vehicles is 'Ashok Leyland 4018', which has a specified GVW of 40,200 kgs. Therefore, there is a mismatch between the

manufacturer's ratings and the actual GVW, as indicated in the Registration Certificate and the certificate dated 12.03.2015 issued by the Regional Transport Authority Faridabad. The learned counsel referred to the provisions of Sections 39, 52 and 58 of the Motor Vehicles Act, 1988 to contend that the petitioner's vehicles cannot be said to be in compliance with clause 11 of the said tender condition. The learned counsel also referred to Rule 126 of the Central Motor Vehicles Rules, 1989.

7. Having heard the arguments advanced by the counsel for the parties, we note that the said notification dated 18.10.1996 specifies the maximum Gross Vehicular Weight and the maximum Safe Axle Weight of each axle of such vehicles having regard to the size, nature and number of tyres and maximum weight permitted to be carried by the tyres as per Rule 95 of the said Rules. While specifying the same, three alternatives have been given. The first is the vehicle manufacturers rating of the Gross Vehicular Weight and the axle weight, respectively for each make and model as duly certified by the testing agency for compliance of Rule 126 of the Central Motor Vehicles Rules, 1989. The second alternative relates to the maximum Gross Vehicular Weight and the maximum Safe Axle Weight of each vehicle respectively, as specified in the Schedule given thereinbelow. Thereafter,

there is a third alternative with which we are not concerned. It is evident that in case the vehicle manufacturer's ratings are to be looked into, then the make and model as well as Rule 126 of the Central Motor Vehicles Rules, 1989 come into play. But, if the other alternative of maximum Gross Vehicular Weight and maximum Safe Axle Weight of each vehicle, as specified in the Schedule is to be taken, then the manufacturer's ratings do not come into play. We find that the petitioner's vehicles fall within the Schedule inasmuch as the petitioner has offered a two-Axle tank trucks for which the GVW has been specified as 35.2 tonnes or 35,200 kgs.

8. Therefore, the submission made by the learned counsel for the intervener cannot be accepted. As long as the petitioner's vehicles comply with the specifications stipulated in the said notification, as given in the Schedule thereto, the petitioner is entitled to be considered for the subject tender. This is, of course, subject to its fulfilling other conditions of the tender. Consequently, we allow the writ petition and direct the respondent IOCL to consider and process the bids made by the petitioner in respect of

the petitioner's vehicles subject to other conditions being fulfilled. The same be done within two weeks.

Dasti.

BADAR DURREZ AHMED, J

SANJEEV SACHDEVA, J

SEPTEMBER 21, 2015

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