

Civil Writ Jurisdiction Case No.18031 of 2011

.... Petitioner/s

1. The Indian Oil Corporation Ltd., Bihar State Office 5th Floor, Lok Nayak Jaiprakash Bhawan, Dak Bunglow Chowk, Patna Through Its General Manager
2. The General Manager, Indian Oil Ccorporation Ltd., Bihar State Office 5th Floor, Lok Nayak Jaiprakash Bhawan, Dak Bunglow Chowk, Patna
3. The State Institutional Sales Manager, Indian Oil Corporation Ltd., Bihar State Office 5th Floor, Lok Nayak Jaiprakash Bhawan, Dak Bunglow Chowk, Patna
4. M/S R.S. Santhalia, Bank More, Dhanbad , P.S. District- Dhanbad

.... Respondent/s

For the Petitioner/s :	Mr. Raj Kishore Prasad, Adv.
For the IOCL :	Mr. K.D. Chatterji, Sr. Adv.
	Mr. Amlesh Kumar Verma, Adv.
For the Resp. No. 4 :	Mr. Amaresh Kumar Sinha, Adv.

Date: 31-03-2016

2. The present writ petition has been filed for quashing the selection of the private respondent no. 4 for appointment of carrying and forwarding agent for Lubricants of Indian Oil Corporation Ltd. (Marketing Division), Bihar State Office for the District of Dhanbad (Jharkhand) in terms of the tender notice no. BSC/CFA/Dhanbad/2011 and to consider the claim of the petitioner for appointment as

carrying and forwarding agent of Indian Oil Corporation Ltd. at Dhanbad as per the price quoted in the bid price of the tender in question.

3. Learned counsel for the petitioner submits that pursuant to a tender floated by the respondent Corporation, the petitioner participated thereunder and being successful in the Techno Commercial Bid, he was invited in the interview and opening of price bid by letter dated 06.07.2011. It is stated that despite the lowest price having been quoted by the petitioner, the tender has been awarded in favour of the respondent no. 4 based on the formula for evaluation as provided in Clause 4.4 of the Brochure. A representation dated 05.08.2011 was also filed before the concerned authorities in support of the petitioner's claim for being declared as the successful bidder in place of the respondent no. 4.

4. Learned Senior counsel for the respondent Corporation, Mr. K.D. Chatterjee, opposes the writ petition, submitting that the entire process was entirely transparent and the requisite formula prescribed in Clause 4.4 of the Brochure has appropriately been applied. The objections raised in the petitioner's complaint dated 05.08.2011 have also point-wise been explained in the counter affidavit filed on behalf of the respondent Corporation, in view of which the

petitioner's grievance is completely misconceived.

5. Learned counsel for the respondent no. 4, Mr. Amaresh Kumar Sinha, appears and submits in addition to the argument of the respondent Corporation that the tender awarded for the period of 5 years has almost run its course and the C&F Agency in its 5th year of operation.

6. Having heard the parties and on consideration of the materials on record, this Court does not find any merit in the writ petition. It is not the petitioner's case that the prescribed formula in terms of Clause 4.4 of the Brochure has not correctly been applied for purposes of evaluation of marks in the Techno Commercial Bid, rather the grievance appears to arise from the fact that the petitioner had quoted a rate lower than the respondent no. 4 and it is on that basis that the petitioner stakes his claim to be declared as the successful candidate. Such a claim cannot be accepted in view of the specific requirement in the Brochure for applying the prescribed formula for purposes of the evaluation of marks. Moreover, having participated in the tender, it is no longer open to the petitioner after being declared unsuccessful to now turn around and question the application of the formula for evaluation. The objections raised in the petitioner's complaint dated 05.08.2011 have been adequately answered in the counter affidavit, in response to

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which the petitioner has not filed any rejoinder and as such the averments in the counter affidavit must be treated as admitted by the petitioner.

7. For the above reasons, this Court is not inclined to interfere in the matter and the writ petition stands dismissed.

(Vikash Jain, J)

Md. Ibrarul/-

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