

**THE HONOURABLE SRI JUSTICE RAJA ELANGO**

**WRIT PETITION Nos.40720, 40788 & 41421 of 2016**

**COMMON ORDER:**

In all these writ petitions, the petitioners are questioning the process followed by the 2<sup>nd</sup> respondent in relating to inviting bids vide Tender No.TAPSO/POL/RDM/WO/PT-04/17-22 during subsistence of existing contracts for similar nature of work and prescribing pre-qualification criteria to hold valid RTO registration and CCOE License (Chief Controller of Explosives License) as illegal and arbitrary and consequently, to set aside the same.

Senior Depot Manager, Karimnagar Depot, Indian Oil Corporation Limited-the 3<sup>rd</sup> respondent herein awarded Bulk POL transport contract to the writ petitioners for transportation of bulk petroleum products from Ramagundam Depot to the outlets for Tank Trucks for a period of two years commencing from 01.04.2014 valid upto 31.03.2016, which is extendable for one more year with the same terms and conditions at the discretion of the 3<sup>rd</sup> respondent and subsequently, the contract was extended for one year upto 31.03.2017 and the petitioners-contractors have been executing the works entrusted. While so, the 2<sup>nd</sup> respondent issued the impugned tender notification published on 04.11.2016 inviting bids from tank truck ('TT') owners for award of contracts for road transportation of bulk petroleum products with effect from 01.02.2017 for a period of three years with an option for extension upto further two years.

It is the grievance of the petitioners that though the previous contracts awarded to the petitioners are valid upto 31.03.2017, the 2<sup>nd</sup> respondent issued the impugned tender notification for the similar

nature of work commencing from 01.02.2016 i.e. during the subsistence of earlier contract period awarded to the petitioners. The further grievance of the petitioners is that in the impugned tender notice, as one of the conditions, the 2<sup>nd</sup> respondent prescribed pre-qualification criteria to hold valid RTO registration and CCOE License. According to the petitioners, the CCOE License would be issued only after completion of body building of the Tank Truck with required specifications and even as per the impugned tender notification, the work would be commenced from 01.02.2017 and therefore, imposing a condition to submit valid RTO registration and CCOE License at the time of submission of tenders is unnecessary and unreasonable. It is contended that prior to the impugned notification, the 2<sup>nd</sup> respondent called for expression of interest from the bidders for road transportation of Bulk Petroleum Products for Retail Outlet Dealers and Direct Consumers, wherein the Retail Outlet Dealers were allowed to apply for Expression of Interest even with proof of either bought chassis or receipt of chassis orders placed with authorized dealer. It was also further stipulated that all formalities like Explosive License, Calibration registration and other statutory State/Centre compliance have to be ensured before award of work. But however, in respect of impugned notification, the said opportunity was not given to the bidders by imposing unreasonable conditions. It is the contention of the petitioners that if an opportunity is given to participate in tender process by producing copy of RC book or purchase invoice of new chassis as provided by the 2<sup>nd</sup> respondent in the similar tender notification called for Chittoor terminal, more persons would get an opportunity to participate in the tender process.

On instructions, the learned standing counsel for the respondents submitted that the new contract will be commenced only after the

expiration of the existing contracts and that the existing contracts will not be pre-closed. Further the tender notification called for Chittoor terminal is for specific purpose and is a different tender and the said notification cannot be compared with the impugned tender notification. The tank trucks for Chittoor terminal are bottom loading and that the terminal is a state of the art technology terminal incorporating various safety systems and control mechanism. Further the cost of fabrication of tank trucks for bottom loading considerably higher and the tank trucks cannot be used for any other location except for a bottom loading location and therefore, the Corporation has permitted the bidders for Chittoor terminal to participate with proof of chassis and when selected, the bidder is required to fabricate the tank trucks. But, as regards the Ramagundam Depot, it is a top loading location and the fabrication cost is less and in case of unsuccessful, the bidder can participate with the same trucks at any other similar locations. The condition for getting CCOE License and the specifications for the vehicle were there even in the earlier notification and the same are not the new conditions.

Heard and perused the material available on record.

It is the main contention of the learned counsel for the petitioners that the earlier contracts awarded to the petitioners are valid and remain in force till 31.03.2017, but the 2<sup>nd</sup> respondent issued the impugned tender notification for the similar nature of work commencing from 01.02.2016. But as seen from the impugned tender notification, the new contract will come into force only after the expiry of the existing contract period and that there is no material or basis for the petitioners to contend that the existing contract will be pre-closed. The date of commencement of contract is mentioned as 'from 01.02.2017 or at a date

to be decided at the discretion of the company'. According to the standing counsel for the respondents, the finalization of the contract will take at least 2 to 3 months since it involves verification of tank truck documents from the web portals of RTO, PESO, physical verification of tank trucks etc. The respondent-Corporation contends that the existing contracts will not be pre-closed and that the existing contracts will be continued till the end of contractual period as per the work orders issued. Therefore, the contention of the petitioners that the respondent-Corporation is not supposed to issue tender notification is not tenable. With regard to the other conditions such as submission of valid RTO registration and CCOE License at the time of submission of tenders, the learned standing counsel for the respondent-Corporation submitted that all such conditions are prevailing even in the previous tenders and that those terms and conditions in the impugned tender are common across the India for the top loading terminals/locations, and the same is not seriously denied or disputed by the learned counsel for the petitioners. Hence, for the above said reasons, this Court is not inclined to interfere with the impugned tender process.

Accordingly, the writ petitions are dismissed. No costs.

Pending Miscellaneous Petitions, if any, shall stand closed.

05.12.2016.  
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**RAJA ELANGO,J**

