

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

**CWP No.27602 of 2015
Date of decision : 9.2.2016.**

Jatinder Kumar and others

.....Petitioners

Versus

Hindustan Petroleum Corporation Limited and others

..... Respondents

**CORAM: HON'BLE MR.JUSTICE S.J.VAZIFDAR, ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE ARUN PALLI**

Present : Mr. Sandeep Arora, Advocate for the petitioners.

Mr. Raman Sharma, Advocate for the respondents.

S.J.VAZIFDAR, ACTING CHIEF JUSTICE (ORAL):

1. The petitioners have challenged the respondents' decision to float tenders for tank/trucks required by the respondents to transport its petroleum products.

2. The petitioners were awarded a contract pursuant to an earlier tender process. A work order dated 1.7.2012 was issued. The period of the contract was for five years with effect from 1.7.2012. Note (c) of the tendered documents relied upon by the petitioners reads as under:-

“(c) At the time finalisation of the tender, TTs upto requirement of first three years shall be inducted. The additional TTs indicated in the subsequent years shall be met by inducting TTs from the existing transporters/dealer-cum transporter/dealer consortiums, in a phased manner, to meet the market demand”.

The respondents' requirement having increased, according to petitioners, they ought to have been given the first option for the same.

3. The respondents on the other hand rely upon clause 4(e) of the general terms and conditions which provides that the respondents reserved the right at their sole discretion and without assigning any reasons whatsoever, to engage additional contractors/Tank Trucks at any time without giving any notice whatsoever to the contractor/s already appointed against this tender.

4. It is, however, not necessary to consider which of the clauses ought to be given preference as the respondents had made an offer to the petitioners to supply additional tank/truck. The respondents had also written a letter dated 20.07.2015 in this regard. The petitioners' grievance that the letter granted only five days to the transporters to complete the formalities for providing additional tank/trucks is not justified especially in the facts and circumstances of this case. The petitioners never responded to the letter. They did not even seek extension of time to furnish the documents. The respondents accordingly justifiably issued the advertisement dated 9.12.2015 inviting tenders for tank/trucks.

5. In response to the respondents' additional requirement, the petitioners filed this writ petition on 29.12.2015 i.e. five months after the letter dated 20.07.2015. The respondents therefore, cannot be faulted for having invited fresh tenders.

6. Faced with this, the petitioners contend that there was a dispute

regarding the rate at which the additional tanks/trucks were to be supplied. The respondents insisted upon the petitioners' supplying the same at the tender rate whereas the petitioners insisted upon supplying the same at the current rate.

7. The petitioners never protested in this regard at least in writing. Nor has this issue been raised in this writ petition. The tender process cannot be annulled on this ground.

8. In the circumstances, writ petition is dismissed.

(S.J.VAZIFDAR)
ACTING CHIEF JUSTICE

9.2.2016
Manoj Bhutani

(ARUN PALLI)
JUDGE