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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 5572/2014

SHIV SHAKTI CYLINDERS

THRO ITS PROPRIETOR

..... Petitioner

Through: Mr. Rakesh Dahiya, Advocate.

versus

INDIAN OIL CORPORATION LTD. & ANR Respondents

Through: Ms. Mala Narayan, Advocate for IOCL.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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04.02.2016

Present writ petition has been filed seeking refund of earnest money of Rs.9,18,000/- to the petitioner with interest.

It is pertinent to mention that by letter dated 20th February, 2014, petitioner's earnest money was forfeited on the ground that petitioner failed to comply with the tender requirements after acceptance of the letter of intent.

A perusal of the file reveals that the admitted position is that petitioner failed to furnish a factory licence and security deposit-cum-performance guarantee as stipulated in the letter of intent.

It is the case of the petitioner that as his bid was not in conformity with the tender notice, it should have been rejected at the threshold stage by the respondent and no letter of intent should have been issued to him. It is

further stated that in the past contracts respondent had not been insisting on production of the factory licence.

However, this Court is of the view that the pre-qualification criteria stipulated in the tender has to be fully complied with.

The fact that in the past respondent had been awarding tenders without insisting upon the factory licence would not militate against the fact that in the present tender it is an essential pre-qualification term.

Petitioner's plea that respondent should have been rejected the petitioner's bid at the threshold stage also does not 'cut any ice' with this Court as the petitioner should not have applied for the tender if he did not fulfil the essential pre-qualification criteria.

Consequently, present writ petition is dismissed. However, keeping in view the peculiar facts of the present case, it is directed that no action for blacklisting shall be taken against the petitioner.

MANMOHAN, J

FEBRUARY 04, 2016

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