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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 11400/2015

M/S SUMAN BULK MOVERS & ORS

..... Petitioners

Through Mr Jayant Mehta with Mr Neeraj Kumar,
Advocates.

versus

INDIAN OIL CORPORATION LIMITED (IOCL)

..... Respondent

Through Mr Rajat Navet, Advocate.

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

% **30.05.2016**

CM No.20421/2016

This is an application filed by the respondent seeking condonation of delay in filing the reply to CM 17868/2016.

For the reasons stated in the application, the application is allowed. The delay in filing the reply to CM 17868/2016 is condoned. The reply is taken on record.

CM 17868/2016

1. This is an application filed by the petitioners seeking clarification of the judgment dated 23.03.2016 whereby the present writ petition was disposed of.

2. The petitioners seek clarification of the said judgment with regard to the mechanism to be adopted by the respondent to fulfil its requirement of 400 tank trucks over and above the 1513 tank trucks which was estimated/projected in the 2014 tender. It is contended that the said 400 tank trucks are part of the requirement of the 2014 tender and the same mechanism should be followed as has been followed in the case of 1513 tank trucks.

3. The contention of the respondent, on the other hand, is that these 400 tank trucks are additional tank trucks and are not covered in the original requirement of 1513 tank trucks, as projected in the 2014 tender and, as such, the requirement is to be filled by following the procedure as specified in Clause 4 of the 2014 tender. It is contended that the initial requirement of the 2014 tender was for 1513 tank trucks and out of the total bids received, 1608 trucks were found to be eligible. However, the respondent only considered quoted tank trucks upto the cut-off figure of 1513 and the 2014 tender had been closed. Thereafter, the requirement of 400 tank trucks is sought to be filled from the existing transporters.

4. We may note that the respondent had sought to fill up the requirement of the 400 tank trucks by inviting a fresh tender i.e. the 2015 Tender. We by our judgment dated 23.03.2016 had struck down the 2015 Tender and had directed that the said requirement be filled up in accordance with the General Terms and conditions of the 2014 Tender. The contention of the respondent that the requirement of 400 tank trucks was additional and over and above the requirement of 2014 tender was rejected by us.

5. Negating the said contention, we had noted that the requirement of 1513 tank trucks stipulated in the 2014 tender was tentative as it was only projected/estimated. We in paragraph 27 of judgment dated 23.03.2016, held that the requirement, as stipulated in the 2015 tender was, in fact, the requirement of the 2014 tender, which was then estimated/projected. The 400 tank trucks, now sought to be inducted, are to be treated as the requirement of the 2014 tender and cannot be taken as an additional after the closure of the 2014 tender. It is clear that the requirement of the 2014 tender which was estimated/projected at 1513 by the addition of 400 tank trucks, got crystallized to 1913.

6. The respondent has to clearly follow the mechanism prescribed under the 2014 tender taking the requirement as 1913 and cannot adopt a different mechanism for the 400 tank trucks. We have clearly noted in our said judgment

that the respondent is trying to nullify the effect of our judgment dated 24.09.2015 in **WP(C) 964/2015 Bajrang International & Ors. v. Indian Oil Corporation Ltd. (IOCL) & Ors.**. Clearly, this is another attempt on the part of the respondent to nullify the effect of the judgment in the case of ***Bajrang International*** (*supra*) and also our judgment dated 23.03.2016 in the present writ petition.

7. It is, accordingly, clarified that the requirement under the 2014 tender shall be taken as 1913 tank trucks and the mechanism prescribed in Clause 4 of the 2014 tender shall have to be followed by the respondents for fulfilling the requirement of the same.

8. The application is disposed of in the above terms.

BADAR DURREZ AHMED, J

SANJEEV SACHDEVA, J

MAY 30, 2016
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