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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 2440 of 2016**

Maa Bamleshwari Transport Company A Proprietorship Concern, Through Its Proprietor Shri Pintu Kumar Verma, S/o Late Shri Chandra Singh Verma, Aged About 39 Years, R/o Block No.12, W.C.-12, Transport Nagar, Ravabhatha, Raipur, District Raipur, (Chhattisgarh)

---- Petitioner**Versus**

1. Indian Oil Corporation Limited Through The Chairman, Corporate Office, 3079/3, Sadiq Nagar, J.B. Tito Marg, New Delhi
2. General Manager (L P G), Indian Oil Corporation Limited, (Marketing Division), Madhya Pradesh State Office 165, Arera Hills, Jail Road, Bhopal (Madhya Pradesh)
3. Deputy General Manager, I/C (L P G), Madhya Pradesh State Office, (Marketing Division), Indian Oil Corporation Limited, 16, Arera Hills, Jail Road, Bhopal, (Madhya Pradesh)
4. Senior Manager (L P G- O), Madhya Pradesh State Office, 16, Arera Hills, Jail Road, Bhopal (Madhya Pradesh)
5. Preet Carrier, Through Deputy General Manager, I/ C (L P G), Madhya Pradesh State Office, (Marketing Division), Indian Oil Corporation Limited, 16, Arera Hills, Jail Road, Bhopal (Madhya Pradesh)
6. M/s Abhishek Enterprises, Through Deputy General Manager, I/ C (L P G), Madhya Pradesh State Office, (Marketing Division), Indian Oil Corporation Limited, 16, Arera Hills, Jail Road, Bhopal (Madhya Pradesh)
7. Dilip Roadways, Through Deputy General Manager, I/ C (L P G), Madhya Pradesh State Office, (Marketing Division), Indian Oil Corporation Limited, 16, Arera Hills, Jail Road, Bhopal (Madhya Pradesh)
8. Preet Motors, Through Deputy General Manager, I/ C (L P G), Madhya Pradesh State Office, (Marketing Division), Indian Oil Corporation Limited, 16, Arera Hills, Jail Road, Bhopal (Madhya Pradesh)
9. Preet Transport, Through Deputy General Manager, I/ C (L P G), Madhya Pradesh State Office, (Marketing Division), Indian Oil Corporation Limited, 16, Arera Hills, Jail Road, Bhopal (Madhya Pradesh)
10. Pioneers Filling Station, Through Deputy General Manager, I/ C (L P G), Madhya Pradesh State Office, (Marketing Division), Indian Oil Corporation Limited, 16, Arera Hills, Jail Road, Bhopal (Madhya Pradesh)

11. Preet Roadways, Through Deputy General Manager, I/ C (L P G), Madhya Pradesh State Office, (Marketing Division), Indian Oil Corporation Limited, 16, Arera Hills, Jail Road, Bhopal (Madhya Pradesh)
12. Kaberwal Service Station, Through Deputy General Manager, I/ C (L P G), Madhya Pradesh State Office, (Marketing Division), Indian Oil Corporation Limited, 16, Arera Hills, Jail Road, Bhopal (Madhya Pradesh)
13. Nitin Road Lines, Through Deputy General Manager, I/ C (L P G), Madhya Pradesh State Office, (Marketing Division), Indian Oil Corporation Limited, 16, Arera Hills, Jail Road, Bhopal (Madhya Pradesh)
14. Preet Highway Service, Through Deputy General Manager, I/ C (L P G), Madhya Pradesh State Office, (Marketing Division), Indian Oil Corporation Limited, 16, Arera Hills, Jail Road, Bhopal (Madhya Pradesh)
15. Preet Logistics, Through Deputy General Manager, I/ C (L P G), Madhya Pradesh State Office, (Marketing Division), Indian Oil Corporation Limited, 16, Arera Hills, Jail Road, Bhopal (Madhya Pradesh)
16. Super Gas, Through Deputy General Manager, I/ C (L P G), Madhya Pradesh State Office, (Marketing Division), Indian Oil Corporation Limited, 16, Arera Hills, Jail Road, Bhopal (Madhya Pradesh)

---- Respondents

And

Writ Petition (C) No. 2177 of 2016

Amar Singh Yadav S/o Chhunnilal Yadav, Aged About 64 Years R/o Dhamdha Naka Durg, P.S. Mohan Nagar, Durg, District Durg Chhattisgarh

---- Petitioner

Vs

1. Indian Oil Corporation (IOCL) Ltd Through Its Registered Office Situated Indian Oil Bhavan G 9 Ali Yavar Jung Marg Bandra West Mumbai Maharashtra 400051 India
2. Indian Oil Corporation (I.O.C.L) Ltd. (Marketing Division) Madhya Pradesh State Office Through Sr. Manager, 16 Area Hills Jail Road, Bhopal M.P. 462011
3. Indian Oil Corporation Ltd. Through The Manager, (M.D.) L.P.G. Bottling Plant Near Mahamaya Sponge, Phase I, C.S.I.D.C. Siltara Bilaspur Road Raipur District Raipur Chhattisgarh 493111 (LPG Ops)
4. Dilip Roadways, Run By Dilip Kesarwani S/o Attarchand Keshwani Aged 56 Years R/o Behind Raipur Civil Court Katchhari Chauk Raipur, District Raipur Chhattisgarh

- 5. Nitin Roadways, Run By Dilip Kesarwani S/o Attarchand Keshwani Aged 56 Years R/o Behind Raipur Civil Court Katchhari Chauk Raipur, District Raipur Chhattisgarh
- 6. Surendra Kabbarwal S/o Gurucharan Singh Kabbarwal, Aged About 59 Years Transporter Of Prit Carrier, Prit Transport Prit Highway, Prit, Motors, Prit Logistics And Kabbarwal Service Station All Are Running At C/o Kabbarwal Services Station Near Govt. Science College Durg, District Durg Chhattisgarh

---- Respondents

For Petitioners : Shri Amrito Das and Shri Arjun Yadav, Advocates.
For Respondent/IOCL : Shri Anand Shukla, Advocate.
For Respondents : Ms. Sharmila Singhai, Advocate.

Hon'ble Shri Deepak Gupta, Chief Justice
Hon'ble Shri Sanjay Agrawal, J.

Order on Board

Per Deepak Gupta, Chief Justice

05/01/2017

- 1. The Respondent-Indian Oil Corporation issued a Notice Inviting Tender for transportation of LPG cylinders from its LPG Bottling Plant at Raipur to various depots in the State of Chhattisgarh. The last date for submission of the tender was 10.06.2016.
- 2. We are concerned with condition No. (v) of part 2 of the pre-qualification criteria which reads as follows:

"Sr.No.	Criteria	PQC Document to be uploaded
v.	Certificate of Registration under Carriage by Road Rule 2011	Copy of Certificate of Registration under Carriage by Road Rule 2011/Proof of submitting the application from relevant RTO authorities. If the Rule is not applicable for any bidders then self-declaration certificate duly signed by the bidders to be furnished. "

- 3. It is not disputed that the Petitioners did not possess the requisite certificate of registration under Carriage by Road Rule 2011 prior to the last date of

submitting the tender which was 10.06.2016. The Petitioners submitted a self-declaration that this certificate was not applicable in their cases. Thereafter, a communication was sent by the Respondent-IOCL to the Petitioners on 26.07.2016 which reads as under:

"1.	Certificate of Registration under Carriage by Road Rule 2011/Proof of submitting the application from relevant RTO authorities. If the rule is not applicable for any bidder then self declaration certificate duly signed by the bidder to be furnished - not submitted. You have submitted on your letter head for non applicability of the Rule in Chhattisgarh State, therefore, for non applicability of Carriage by Road Act 2011 in Chhattisgarh State as claimed by you, notification from RTO/CG Govt. to be submitted.
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You are therefore requested to please submit manually (in person) the above said documents and get verified the documents mentioned above with originals within 15 days from the date of this letter i.e. on or before **09.08.2016 at 17:00 HRs** at the following address failing which your tender will be rejected."

4. Admittedly, the Petitioners submitted the certificate which they had obtained on 01.08.2016 and 06.08.2016, respectively. Thereafter, their tenders have been rejected as being technically improper since according to the Respondents, the Petitioners did not possess the Certificate of Registration under Carriage by Road Rule, 2011 prior to the last date of submission of the tender.
5. Various contentions have been made on behalf of the Petitioners. The first contention is that in the State of Chhattisgarh, Certificate of Registration under Carriage by Road Rules, 2011 were not being implemented in its letter and spirit and almost none of the RTOs were issuing any such certificate under these rules. The case of the Petitioners is that since no such certificates are not being issued, they remained under the impression that they are not required to submit such certificate and therefore they submitted the said declaration. However, after the letter dated 26.07.2016 was issued when they again approached the RTO concerned to give them a certificate in writing that no such certificate was required, then the RTO did not gave them any such certificate instead suggested

that they should get themselves registered under the Rules of 2011.

6. It is lastly submitted that the letter dated 26.07.2016 itself enlarges the time to produce any of the three documents i.e. copy of Certificate of Registration under Carriage by Road Rule 2011 / proof of submitting the application from relevant RTO authorities and if the Rule is not applicable for any bidders then self-declaration certificate duly signed by the bidders to be furnished upto 09.08.2016.

7. At this stage, we may point out that this very condition was the subject matter of challenge in Writ Petition (C) No. 1952 of 2015 decided by a Division Bench of this Court and in this decision rendered on 11.01.2016, this Court held as follows:

"7. A bare reading of Clause-9 of the Notice Inviting Tender makes it apparent that it was mandatory for a bidder to possess a valid certificate of registration in accordance with the Carriage by Road, Rule 2011. A clear and simple reading of the condition leaves no doubt that such registration was to be possessed by an intending bidder before the last date for submission of bids i.e. 4.8.2015. If the Petitioner did not submit the necessary documentation and the Respondents gave him an opportunity to submit the same, it does not amount to novation, alteration much less modification of the terms of the tender. The Corporation may have believed that by oversight, the Petitioner had not submitted it and therefore provided it an additional opportunity to do so. This opportunity did not vest the right in the Petitioner to apply for a fresh certificate not possessed by it before 4.8.2015. The letter dated 10.9.2015 did not extend the last date for valid submission of bids. It is not open for the Corporation to provide any relaxation to an individual bidder as that itself would be violative of Article 14 of the Constitution. A relaxation given across the Board is an entirely different matter. There are no allegations of mala fides or acting contrary to the terms of the Notice Inviting Tender to favour any individual bidder."

8. Ignorance of law cannot be an excuse. If the rules require registration, then merely because the Petitioners were ignorant of the rules is no ground to exempt them. The Petitioners would have this Court believed that they were going to the RTOs concerned but no such certificate was being issued. They have failed to produce any documentary evidence in this regard. There is only an oral submission being made that they had been approaching the RTOs concerned. Official authorities are not approached orally. They are always approached in

writing. No certificate could have been granted on an oral request being made by the Petitioners. They have failed to produce any document to show that they had applied for such registration. Therefore, we are not in agreement with the Petitioners that because of some misconception or lack of knowledge of law, they did not know that registration could be done under the Carriage by Road Rules, 2011.

9. The next issue is with regard to the interpretation of the letter dated 26.07.2016 . We have already quoted the letter above. Even if we were to give the most liberal interpretation to this letter, all it means is that the time for submitting the documents i.e. certificate of registration, application for registration or proof of fact that such certificate is not required, could be submitted upto 09.08.2016. This by no means can be stretched to such an extent as to mean that the registration even if done after the last date of submission of tender would be valid. In fact, this question is no longer *res integra* and has been decided by a Division Bench with which we are in respectful agreement.

10. Before parting with the cases, we may observe that Shri Amrito Das, learned counsel for the Petitioner has submitted that even now the Respondent-IOCL does not have sufficient number of trucks to carry the LPG cylinders from the Bottling Plant at Raipur to various parts of Chhattisgarh. If that be so, then it is open to the Respondent-Indian Oil Corporation Ltd. to either award the tender in favour of the Petitioners or invite fresh tenders or to negotiate with the transporters as it may desire.

11. With these observations, both the writ petitions are dismissed.

Sd/-
(Deepak Gupta)
CHIEF JUSTICE

Sd/-
(Sanjay Agrawal)
JUDGE