

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.10191 of 2018

and

W.M.P.Nos.12130 & 24649 of 2018

M.Chinnapaiyan

Proprietor,

Sri Selvalakshmi Transport,

No.4/210, Kamarajar Salai,

Manjambakkam,

Chennai - 600 060.

... Petitioner

Vs

Indian Oil Corporation Ltd.

Rep. by its Deputy General Manager,

Korrukupet Terminal,

Kathivakkam High Road,

Chennai - 600 021.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in connection with the impugned proceedings of the respondent dated 16.04.2018 in IOC/TNP/OP/TT MALPRACTICE/5630, quash the same and consequently direct the respondent to restore the contract awarded to the petitioner in so far as Tank Truck No.TN03J5630 is concerned.

For Petitioner : Mr.O.R.Santhanakrishnan

For Respondent : Mr.Mohammed Fayaz Ali

ORDER

This writ petition is filed challenging the order dated 16.04.2018 of the respondent in blacklisting the petitioner for a period of two years with effect from 16.04.2018 on the reason that the petitioner has violated the terms of the tender conditions.

2. Heard the learned counsel for the petitioner and the learned counsel appearing for the respondent Corporation.

3. The petitioner and the respondent Corporation entered into an agreement dated 14.07.2016 for transporting bulk petroleum products on road. The period of contract is for three years. However, the respondent issued a show cause notice dated 29.01.2018 and called upon the petitioner to show cause as to why the petitioner is not liable for appropriate action for breach of the terms and conditions of the contract, in view of the shortage in the Tank Truck bearing No.TN03J5630 to the tune of 328 litres. The petitioner gave a reply and thereafter the present impugned proceedings was issued.

4. Though the learned counsel for the petitioner vehemently contended on the merits of the matter, this Court is not inclined to go into any of such contentions and express its view, since Clause-16 of the terms and conditions stipulates that all questions, disputes and differences arising under or in relation to the agreement shall be referred to the sole arbitration and that the provisions of the Arbitration & Conciliation Act, 1996 shall apply to the arbitration proceedings.

5. When such being the position, the petitioner is not justified in filing the present writ petition and questioning the impugned action without resorting to the arbitral proceedings as provided under Clause -16 as stated supra.

6. Therefore, this Writ Petition is disposed of without expressing any view on the merits of the contentions raised by both the parties, however, by granting liberty to the petitioner to agitate the matter by way of Arbitration. Consequently, the stay granted is vacated and other connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

gsi/vri

To

The Deputy General Manager,
Indian Oil Corporation Ltd.
Korrukupet Terminal,
Kathivakkam High Road,
Chennai - 600 021.

+lcc to Mr.O.R.Santhanakrishnan, Advocate SR.No.19807

+lcc to Mr.Mohammed Fayaz Ali, Advocate SR.No.19817

W.P.No.10191 of 2018

RR(CO)
GMY(28/03/2019)



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