GAHC010151602020

THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/4485/2020

M/S NEW AGE PETCOKE PVT LTD
A COMPANY INCORPORATED UNDER THE COMPANIES ACT, 1956 AND HAVING ITS REGD. OFFICE AND INDUSTRIAL UNIT AT PALASHBARI, P.O. KAJALGAON IN THE DIST. OF CHIRANG (BTAD), ASSAM, REP. BY ONE OF ITS DIRECTOR, SHRI BIPUL KUMAR DUTTA

VERSUS

THE UNION OF INDIA AND 3 ORS
REP. BY THE SECY., MINISTRY OF PETROLEUM AND NATURAL GAS, SHASTRI BHAVAN, NEW DELHI- 110001

2:INDIAN OIL CORPORATION LTD.
A GOVT. OF INDIA ENTERPRISE
HAVING ITS REGD. OFFICE AT INDIAN OIL BHAWAN
G-9
ALI YAVAR JUNG MARG
BANDRA (EAST)
MUMBAI- 400051

3:DIRECTOR MARKETING
INDIAN OIL CORPORATION LTD.
INDIAN OIL BHAWAN
G-9
ALI YAVAR JUNG MARG
BANDRA (EAST)
MUMBAI- 400051

4:THE GENERAL MANAGER
INDIAN OIL CORPORATION LTD.
NORTH EAST INTEGRATED STATE OFFICE MARKETING DIVISION
SECTOR- III

NOONMATI
GHY
ASSAM- 781020

Advocate for the Petitioner : MR G N SAHEWALLA

Advocate for the Respondent : ASSTT.S.G.I.

Linked Case : WP(C)/3389/2020

M/S. NEW AGE PETCOKE PVT. LTD.
A COMPANY INCORPORATED UNDER THE COMPANIES ACT
1956 AND HAVING ITS REGISTERED OFFICE AND INDUSTRIAL UNIT AT
PALASHBARI
P.O. KAJALGAON
DIST. CHIRANG (BTAD)
ASSAM
PRE. BY ONE OF ITS DIRECTOR
SHRI BIPUL KUMAR DUTTA

VERSUS

THE UNION OF INDIA AND 11 ORS.
REP. BY THE SECRETARY
MINISTRY OF PETROLEUM AND NATURAL GAS
SHASTRI BHAVAN
NEW DELHI-110001

2:INDIAN OIL CORPORATION LTD.
A GOVT. OF INDIA ENTERPRISE HAVING ITS REGISTERED OFFICE AT INDIA
OIL BHAWAN
G-9
ALI YAVAR JUNG MARG
BANDRA (EAST)
MUMBAI-400051
3:DIRECTOR MARKETING
INDIAN OIL CORPORATION LTD. INDIA OIL BHAWAN
G-9
ALI YAVAR JUNG MARG
BANDRA (EAST)
MUMBAI-400051
4:THE GENERAL MANAGER

INDIAN OIL CORPORATION LTD. NORTH EAST INTEGRATED STATE OFFICE
MARKETING DIVISION
SECTOR-III NOONMATI GUWAHATI
ASSAM-781020

Advocate for : MR G N SAHEWALLA
Advocate for : SC
I O C appearing for THE UNION OF INDIA AND 11 ORS.

BEFORE
HONOURABLE MR. JUSTICE SUMAN SHYAM

ORDER

Date : 01-12-2020

Heard Mr. G.N. Sahewalla, learned senior counsel assisted by Mr. A. Chetia, learned counsel appearing for the writ petitioner. I have also heard Mr. D.K. Sarmah, learned Standing Counsel, IOCL, appearing on behalf of the respondent nos. 2 to 4. Mr. K.K. Parasar, learned CGC, appears on behalf of the respondent no. 1 Union of India.

The grievance expressed in both these writ petitions are identical in nature and the reliefs prayed for are also similar. Therefore, with the consent of the learned counsel for both the parties, these writ petitions are being taken up for disposal at the stage of admission hearing.

The petitioner herein is in the business of manufacturing and sale of Calcined Petroleum Code (CPC). In order to manufacture the said product, the petitioner company is required to purchase Raw Petroleum Code (RPC) on regular basis, which is sold in e-auction by the respondent nos. 2 to 4. According to the writ petitioner, the capacity of its unit to submit bid has been assessed by the respondent authorities, as equivalent to 45 days production capacity. However, it is alleged that over the past 4 to 6 months, the respondents have not been adhering to the auction schedule, as prescribed by the existing guidelines. On the contrary, the e-auctions have been delayed by up to 90 days without corresponding rise in the bidding capacity thereby causing heavy loss and injury to the petitioner's unit.

By referring to the communication dated 07/05/2012 as well as the subsequent communication dated 26/10/2012, issued by the Under Secretary to the Government of India, Ministry of Petroleum, Mr. Sahewalla submits that there is already a directive from the Government of India to conduct e-auction of RPC at adequate frequency with a further direction that the quantity in the bid of each

party should not exceed the installed/assessed capacity.

In view of the above, unless the respondents adhere to a definite schedule of auction by matching the quantity as per the bid capacity of the party, the same would cause serious injury to the interest of his client. Mr. Sahewalla, therefore, submits that regardless of the frequency of the e-auction, the quantity should match the capacity of the petitioner as assessed by the authorities.

Responding to the said submission, Mr. Sarmah contends that the irregularity in holding e-auction over the past about six months has been due to imposition of lockdown and other restrictions in the functioning of the Refinery units. Mr. Sarmah, however, submits that the situation has eased off since then and for the present, the Corporation intends to carry out auctions at regular intervals and as per the schedule earlier followed by it and also provide adequate quantity as per the capacity of the bidder. According to Mr. Sarmah, such a measure is also in the best interest of the Corporation. Mr. Sarmah further submits that disruption in following the above guidelines may occur in future only in the event of any unforeseen event, such as lockdown or for other technical reasons. The learned Standing Counsel has, however, vociferously argued that the benefits claimed by the petitioners as regards auctions already held cannot be considered by the authorities.

Mr. Sahewalla, learned senior counsel for the petitioner has fairly submitted that his client is not pressing for any past benefit and would be satisfied if the assurance given by the learned Standing Counsel to the effect that proper auctions at adequate frequency, offering proper quantity would be adhered to by the Corporation henceforth.

Taking note of the submission made by learned counsel for both the parties and in view of the nature of grievance expressed in the writ petition, I dispose of the writ petitions by providing that while holding e-auctions, the respondents may adhere to adequate frequency by keeping in mind the capacity of the bidder each time such auction is held.

In the event any alteration and/or modification is required to this order, both the parties would be at liberty to move this Court by filing appropriate application.

With the above observation, both the writ petitions stand disposed of.

JUDGE

Comparing Assistant