



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. No. 14101 of 2021

B.Raju

...Petitioner

Versus

1. The Indian Oil Corporation Limited
Rep. By its Deputy General Manager (Contracts)
Southern Region
Indian Oil Bhavan,
139, Uttamar Gandhi Salai,
Chennai - 600 034.
2. The Hindustan Petroleum Corporation Limited,
Rep. By its Deputy General Manager
Category Management - Logistics CPO-HQO
No.17, Jamshedji Tata Road,
Mumbai - 400 021.
3. Deputy General Manager - LPG
Hindustan Petroleum Corporation Limited,
Mangalore LPG Regional Office
II Floor, Deo Gratias Building,
Chilimbi - Urva Stores,
Mangaluru - 575 006

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Declaration declaring the decision of Blacklisting ordered by the 1st Respondent by making an entry in the OMC (Oil Marketing Companies) blacklisting portal in respect of Petitioner Truck vehicles bearing registration numbers TN66S2133, TN66S1922, TN661924 and TN66S2135 respectively as illegal, arbitrary and done without following principles of Natural justice.

For Petitioner	:	Mr. E. Vijay Anand
For R1	:	Mr. Mohammed Faya Ali
For R2 & R3	:	Mr.Vijayan for M/s King & Patridge



ORDER

The petitioner seeks to issue a Writ of Declaration declaring the decision of Blacklisting made by the 1st Respondent, by making an entry in the OMC (Oil Marketing Companies) blacklisting portal in respect of Petitioner's Trucks bearing registration numbers TN66S2133, TN66S1922, TN661924 and TN66S2135 respectively as illegal, arbitrary and done without following principles of Natural justice.

2. The petitioner, who is a registered transport contractor as MSME (Micro, Small and Medium Enterprises) participated in the tender floated by the first respondent for transportation of LPG Cylinders and offered four trucks owned by him. The petitioner's tender was accepted vide Letter of Acceptance dated 07.01.2021 of the first respondent. Even according to the petitioner, it was stated in the Letter of Acceptance that it is a mere offer and does not constitute any firm commitment of the Corporation to issue work order. In other words, it was stated that a discretion is vested with the respondents to issue the work order and further the contract will be terminated for failure on the part of the petitioner in complying with the terms and conditions of the contract. Thereafter, the first respondent, by communication dated 28.01.2021, called upon the petitioner to produce the trucks for physical verification, however, the petitioner, by a reply dated 29.01.2021, expressed his inability to produce the vehicle by citing financial constraints. Thereafter, the petitioner participated in similar tender floated by the respondents and offered 9 of his trucks for execution of the work specified and the petitioner was also issued a Letter of Acceptance on 03.05.2021. At the same time, it was stated that four of his vehicles are blacklisted by the first respondent by the first respondent from utilising it in the contract with the respondents.

3. According to the counsel for the petitioner, without even issuing a show cause notice or conducting an enquiry, black listing 4 trucks offered by the petitioner is unlawful. Merely because the petitioner did not produce the four vehicles when required to be produced by the first respondent for physical verification, it will not be a ground for the first respondent to black list the vehicles. The learned counsel for the petitioner also submitted that the first respondent did not communicate the order of black listing to the petitioner. The petitioner, while participating in the second tender, has offered 9 trucks, inclusive of the four trucks, which are black listed by the first respondent. In any event, the order of blacklisting has not even communicated to the petitioner and



therefore he has filed the present writ petition for issuing a Writ of declaration.

4. Today, when the writ petition is listed for hearing, the learned counsel for the first respondent as well as the learned counsel for the respondents 2 and 3 fairly submitted that a decision to black list the petitioner's vehicle was taken, but it was not communicated to the petitioner. It is further stated that before black listing the vehicles offered by the petitioner, for any reason, a show cause notice will be issued to the petitioner and his explanation, if any submitted, will be taken note of by the first respondent before taking a final decision.

5. In view of the above submission of the counsel for respondents, a Writ of Declaration, as sought for by petitioner need not be granted. Suffice it to observe that if the respondents intend to black list the vehicles offered by the petitioner, it shall be done only after issuing a show cause notice to the petitioner, providing him sufficient time to respond and thereafter, a decision shall be taken by the respondents on merits and in accordance with law.

6. With the above direction, the writ petition is disposed of. No costs. Consequently, all the connected Miscellaneous Petitions are closed.

-s/d-

Assistant Registrar(CS-IV)

True Copy

Sub-Assistant Registrar

av/rsh

To

1. The Deputy General Manager (Contracts),
The Indian Oil Corporation Limited
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Chennai - 600 034.
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The Hindustan Petroleum Corporation Limited,
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II Floor, Deo Gratias Building,
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Mangaluru - 575 006

+1cc to Mr.E.Vijay Anand, Advocate, Sr.36904

+1cc to M/s.King & Partridge, Advocate, Sr.36536

WP No. 14101 of 2021

PMK[co]

NSK 27/08/2021