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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2021

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

Writ Petition Nos. 17917 and 17919 of 2021
and
WMP Nos. 19127 and 19129 of 2021

Sri Padmavathi Packaging Industries
rep. by its Partner S.Senthil Kumar
No.3/255, Padasalai Street
Villangadupakkam Road
Vadakarai Post
Chennai 600 050

.. Petitioner in both writ petitions

Versus

1. The General Manager, (Contract Cell)
Indian Oil Corporation Limited
139, Nungambakkam High Road
Chennai 600 034.
2. The Deputy General Manager, (Contract Cell)
Tender Inviting Authority
Indian Oil Corporation Limited
139, Nungambakkam High Road
Chennai 600 034.

.. Respondents in both writ petitions

W.P.No.17917 of 2021: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the second respondent to consider the bid of the petitioner for the Tender No.SRCC/ PT/018/TNSO/2021-22 without insisting upon production of the consent from Tamil Nadu Pollution Control Board due to Covid-19 Pandemic otherwise the same is in order.

Prayer in W.P.No.17919 of 2021: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the second respondent to consider the bid of the petitioner for the Tender No.SRCC/ PT/038/TNSO/2021-22 without insisting upon production of the consent from Tamil Nadu Pollution Control Board due to Covid-19 Pandemic otherwise the same is in order.



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For Petitioner : Mr. C.M.Mohanasundaram
in both the writ petitions

For Respondents: Mr.Mohammed Fiyaz Ali
in both the writ petitions

COMMON ORDER

Both the Writ petitions are filed seeking to issue a Writ of Mandamus directing the second respondent to consider the bid of the petitioner for the Tender Nos. SRCC/PT/018/TNSO/2021-22 and SRCC/PT/038/TNSO/2021-22 respectively, without insisting upon production of consent from Tamil Nadu Pollution Control Board due to Covid-19 Pandemic, if it is otherwise in order.

2. The contention of the petitioner is that the second respondent has invited Tenders for Contract Packer for filling Sarvo Lubricant in small pack ranging from 175 ml to 2.5 liters in HDPE container and supply of filled product (In-Cartons) to Lube Marketing Terminal, Madhavaram, Chennai/ Lube bending plant, Chennai. While inviting such tender, one of the mandatory conditions imposed is that the tenderer should possess valid consent from the Tamil Nadu Pollution Control Board. According to the petitioner, such a condition was not imposed by the second respondent in the previous tenders flouted and for the first time, such a clause was introduced by the second respondent. It is the grievance of the petitioner that due to the present pandemic situation, he could not obtain the requisite consent from the Tamil Nadu Pollution Control Board. The petitioner also sent an e-mail on 26.05.2021 requesting the respondents to grant extension of time for obtaining consent from the Board. It is the specific contention of the petitioner that the office of the Tamil Nadu Pollution Control Board was closed and therefore, the petitioner could not obtain consent and enclose it along with the tender application. It is also stated that the petitioner is carrying on business of re-packaging of the lube oil and supplying it to the second respondent for the past 11 years. According to the petitioner, earlier, similar tender was flouted by the petitioner with very same condition and the petitioner submitted his application. However, their bid for Tender No.SRCC/PT/017/ TNSO/2021-2022 was rejected. Apprehending that similar fate may befall on the petitioner in respect of the present tender applications as well, the petitioner has filed these writ petitions to direct the second respondent to consider their bid for the aforesaid two tenders, without insisting upon production of such consent from the Board.



3. Heard the learned counsel appearing for both sides and perused the materials on record.

4. The learned counsel appearing for the petitioner submitted that during the pendency of these writ petitions, the petitioner has obtained consent order on 06.09.2021 from the Tamil Nadu Pollution Control Board and it was sent along with the e-mail dated 06.09.2021 to the respondents. He further submits that since the mandatory document for consideration of the subject matter of the tenders has been obtained and sent to the respondents, the bids of the petitioner for the aforesaid tenders may be directed to be considered by the respondents.

5. The learned counsel appearing for the respondents submitted that the subject matter of the tenders are pending for technical evaluation and without prejudice to the other tender conditions, the petitioner's bid for tenders will be considered.

6. Considering the submission made by the counsel for the respondents and also taking into account the fact that the petitioner has obtained consent from the Tamil Nadu Pollution Control Board and forwarded it to the respondents and the tenders received from the bidders are pending for technical evaluation, the second respondent is directed to consider the bid of the petitioner for the above said tenders, if the tender application is otherwise entitled to be considered.

7. With the above direction, both the writ petitions stands disposed of. No costs. Consequently, connected writ miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-V)

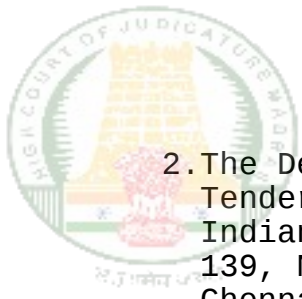
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Sub Assistant Registrar

mst/rsh

To

1.The General Manager, (Contract Cell)
Tender Inviting Authority
Indian Oil Corporation Limited
139, Nungambakkam High Road
Chennai 600 034.



2.The Deputy General Manager, (Contract Cell)
Tender Inviting Authority
Indian Oil Corporation Limited
139, Nungambakkam High Road
Chennai 600 034.

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+2CCs to M/s.C.M.Mohanasundaram, Advocate, SR.No. 45665

WP Nos.17917 & 17919/2021

RSV(CO)
B.VC (26/10/2021)