

213 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 4820 of 2021 (O&M)

Reserved on 05.04.2021

Date of decision : 09/04/2021

M/s Arun Art Services & anr.

..... Petitioners

versus

Indian Oil Corporation Ltd. & anr.

..... Respondents

**CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
HON'BLE MR.JUSTICE RAJESH BHARDWAJ**

Present :- Mr. Sanjay Tangri, Advocate for the petitioners.

Mr. Ashish Kapoor, Advocate for respondents No.1 & 2.

Mr. Dheeraj Jain, Advocate for respondent No.3-NIC.

AJAY TEWARI, J.

1. This petition has been filed challenging the rejection of the tender of the petitioners for the reason “Not meeting PQC (Pre Qualifying Criteria) of turnover and for not submitting mandatory documents I.P. (Integrity Pact) agreement”.

2. As per the advertisement, e-applications had to be filed which the petitioners complied with. By Annexure P-3 deficiencies were observed in the application of the petitioners which were permitted to be rectified and time was granted upto 1600 Hrs on 04.12.2020 for uploading the complete documents. As per the petitioners they complied with that but thereafter by order dated 12.01.2021 (Annexure P-7) the tender was rejected.

3. The case set up by the petitioners is that the petitioners had actually complied with all the requirements and were fully qualified and

therefore, the rejection of their tender was illegal. Responses were sought and in the reply filed by respondent No.1 it was mentioned that the documents had not been fully uploaded. Thereafter, on 09.03.2021 the following order was passed :-

“Learned counsel for the respondents states that in fact the entire process of the application was done by the National Informatics Centre (NIC) and therefore, it would be the NIC who would be able to respond to the averments that the petitioner had uploaded the documents in time or not. He seeks a short adjournment to file an affidavit in this regard.

Adjourned to 16.3.2021.”

4. On 16.03.2021, the following order was passed :-

“An affidavit dated 12.3.2021 has been filed in the Registry by way of affidavit of Simarveer Singh working as Assistant Manager (LAW) Punjab State Officer of Indian Oil Corporation, Sector-19A, Madhya Marg Chandigarh. As per the affidavit, it has been confirmed that the entire processing of the applications was done by National Informatics Centre (NIC).

In the circumstances, we deem it appropriate to implead NIC through the Director General, NIC, A Block, CGO Complex, Lodhi Road, New Delhi.

*Let the newly added respondent be served by way of **dasti** process for 25.3.2021.”*

5. And on 25.03.2021 the following order was passed :-

“At the very outset Mr. Ashish Kapoor, Advocate states that in the last order it has been mentioned that entire processing of the applications has been done by NIC, but that is not entirely correct because the processing was done by the Indian Oil Corporation but the process of receiving documents etc. was done by the Indian Oil Corporation and

it was, therefore, the NIC which would be able to confirm as to when and which date and time document filed by the petitioner was actually uploaded.

Mr. Dheeraj Jain, Advocate accepts notice on behalf of NIC and he is directed to file short affidavit on these aspects.

Adjourned to 5.4.2021.”

6. In consequence to that a short reply was filed on behalf of respondent No.3-NIC wherein the entire process of uploading documents was explained and it was mentioned as follows :-

“11. That on analyzing the server log against the tender id 2020_NRO_120360_1, the following observations were found :-

a. That the petitioner no.1, M/s Arun Art Service, had logged in to the portal on 03rd Dec 2020 at 08:16 PM one day before closing date & time, i.e. 04/12/2020 @ 16:00 Hrs.

b. That the petitioner no.1 had uploaded a document at 08:33:41 PM on 03rd Dec 2020 and the same was successfully verified & digitally signed by the petitioner no.1.

c. That, however, the petitioner no.1 logged out of the portal at 08:36 PM without finally submitting the clarification document(s) by following due process, as explained above.

d. That as the petitioner no.1 had not submitted the document by following due process, as explained above, on or before the specified date i.e. 04/12/2020 @ 16:00 Hrs, the reply document was not visible to the Tender Inviting Authority for the evaluation.”

7. It was further mentioned in sub para (i) of paragraph 6 as follows :-

“i. That once the supporting document is finalized by the

bidder, as a final step or conclusion, the same should be submitted to the concerned Tender Inviting Authority by clicking on “Send for Reply Clarification” button indicating the successful submission of the clarification. Until & unless the “Send for Reply Clarification” is clicked by the bidder, the clarification document of the bidder would not be available to the concerned Tender Inviting Authority.

On failure to comply with the above-mentioned system process, the bid may be liable for rejection as per discretion of the concerned tender inviting authority.”

8. In the circumstances, the only conclusion which can be drawn is that though the petitioners had uploaded a document on 08:33:41 PM on 03.12.2020 yet instead of uploading the remaining document it mistakenly logged out of the portal at 08:36 PM and that is why the reply document was not visible to the Tender Inviting Authority and consequently, the bid was rejected.

9. In this view of the matter, no relief can be granted to the petitioners.

10. Petition stands dismissed.

11. Since the main case has been dismissed, the pending Misc. Applications, if any, also stands dismissed.

(AJAY TEWARI)
JUDGE

(RAJESH BHARDWAJ)
JUDGE

09/04/2021
pooja sharma-I

Whether speaking/reasoned
Whether Reportable :

Yes/No
Yes/No