

23.11.2022
Ct. 5
D/L 9
ab

WPA 24254 of 2022

Ghosh Oil Movers & Anr.

-Vs-

Hindustan Petroleum Corporation & Ors.

Mr. Debabrata Saha Roy,
Mr. Neil Basu

... for the petitioners

Mr. Biswanath Chatterjee,
Mr. Sobhan Pathak

... for the Hindusthan Petroleum Corporation Ltd.

The grievance of the petitioners relates to rejection of the petitioners' bid uploaded on 13th October, 2022 and formally communicated on 15th November, 2022. The reason given is that the petitioners offered the same Tank Truck (TT) in more than one HPCL location. The Hindustan Petroleum Corporation Ltd. (HPCL) is the Tender Floating Authorities and the respondents before the Court. The HPCL floated the tender for transportation of bulk white petroleum products by road.

The following facts are undisputed. The HPCL floated two tenders, first in January, 2022 for Mughalsarai and the second tender in April, 2022 for Haldia. The tender conditions contained a requirement

of transporters offering a minimum of 5 TTs for Mughalsarai and 3 TTs for Haldia. The material Clause in both the tenders is that the tenderer should offer separate TTs for each location and that if the same TT is offered for more than one location, the contract will be terminated for all the locations. The petitioners offered 10 TTs for Mughalsarai Tender and 27 TTs for Haldia Tender.

It is further undisputed that since the Mughalsari Tender was for a period till 31st December, 2022, the offer made to the petitioners in July, 2022 was not accepted by the petitioners. The petitioners did not put in the security deposit and refused to execute the offer letter for Mughalsarai.

The second tender for Haldia was of April, 2022. Hence, by the time the petitioners bid for in Haldia Tender was rejected, the Mughalsari chapter had been closed. The reason for rejecting the petitioners' bid for the second tender, i.e, for Haldia cannot be supported since only one TT was found to be common in the Mughalsarai Tender.

The unreasonableness of the decision is two-fold. First, as stated above, the Mugharsari Tender was closed as of July, 2022 before the petitioners' bid for Haldia was rejected in October/November, 2022. Second, since the petitioners offered 24 TTs in excess to the requirement meant for Haldia, only one TT being

found to be common cannot be a ground to reject the petitioners' bid.

The balance of convenience also demands that the petitioners having purchased and procured 37 TTs for both the tenders, cannot be compelled to keep all the TTs idle. The ground taken for rejecting the petitioners bid for the second tender, despite the petitioners' waiting since January, 2022, cannot be supported under any circumstances.

By the reasons of the above, this Court is inclined to quash the rejection of the petitioner's bid which was formally communicated on 15th November, 2022. Since both the parties have been heard at length, nothing further remains in the writ petition.

WPA 24254 of 2022 is accordingly disposed of in terms of the above.

(Moushumi Bhattacharya, J.)