

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.7617 of 2023

M/s Ratan Singh and Co. through its Partner Ratan Singh, having its registered Office At and P.O. Tiltrath, P.S.-Barauni, District -Begusarai, (Ratan Singh, Male aged about 64 Years, S/o-Ramjee Singh, R/o-Tiltrath, Ward no.11, Panchayat -Bathauli, PO and PS-Telar, District-Begusarai.

... .. Petitioner/s

Versus

1. The Chairman, Indian Oil Corporation Limited Indian Oil Bhavan, G-9, Ali Yavar Jung Marg, Bandra (East), Mumbai, Maharastra.
2. The Manager Contracts ERO, Regional Contract Cell, IOCL, MD, 9th Floor, Central Wing Indian Oil Bhavan, 2 Gariahat Road South, Dhakuria, Kolkata, 700068. TIA (Tender inviting Authority)
3. The CGM (Operations) IOCL, Bihar State Office, 5th Floor, Lok Nayak Jia Prakash BHawan, Dakbunglow Chowk, Patna-1, Bihar.
4. The Executive Director and State Head, Bihar Head Office Indian Oil Corporation Limited (MD), 5th Floor, Lok Nayak Jia Prakash Bhawan, Dakbunglow Chowk, Patna-1, Bihar.
5. The Senior Manager, (Contract Cell), ERO Indian Oil Corporation Limited 5th Floor, Lok Nayak Jia Prakash Bhawan, Dakbunglow Chowk, Patna-1, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Alok Ranjan, Advocate
For the Respondent/s	:	Mr. K.D. Chatterji, Sr. Advocate
		Mr. Amlesh Kumar Varma, Advocate
		Mr. Ankit Katriar, Advocate

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
and
HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 11-08-2023

Heard learned counsels for the parties.

2. In the instant petition, petitioner has prayed for
following reliefs:-

" 1. That by this writ
application the petitioner seeks indulgence
of this Hon'ble Court for issuance of
appropriate writ(s), direction(s), order(s) for



the following reliefs:-

I. For writ in nature of certiorari for quashing of the decision taken by Tender Authority of India (TIA) which was uploaded on the official website of the IOCL and was emailed to the petitioner's Email ID on 11th of May 2023, whereby and where under the technical bid of the petitioner has summarily been rejected on a hyper Technical, ancillary and subsidiary ground, that too due to technical flaw, the RTO document RC Book (Registration Certificate)/ smart card of the Tank Trucks offered were not uploaded and '**query**' as per guidelines (an opportunity for rectification of defects, shortfall and uploading of documents) was not provided to the petitioner, in a very arbitrary and illegal manner and the respondent authorities have discriminated the petitioner, as the query has been provided to other transporters by the respondent authorities, moreover, documents were Emailed to the respondent authorities on the official mail of the company.

II. For issuance of a writ or writs in nature of Mandamus for direction to the concerned respondent to consider the tender of the petitioner along with other bidders in pursuant to **NIT Tender Reference no. RCC/ERO/37/2022-23/PT-175** and allow the petitioner to participate in the tender process i.e. reverse auction and which is schedule for 22.05.2023 and award the same in accordance with law.

III. For any other relief or reliefs for which the petitioner is entitled under law in the facts and circumstances of the present case."

3. Respondents issued N.I.T. bearing Tender



Reference No. RCC/ERO/37/2022-23/PT-175 insofar as providing Tank Trucks for the purpose of transportation of petroleum products from Barauni Terminal to different destination (for retailers). The last date of submission of bid/application is 22.02.2023. The process of tender is through e-tender/ online. The petitioner is stated to have submitted online application before the last date of submission of application/ bid i.e. 22.02.2023. He was not aware of the date of submission of online application. However, we have to presume that it must be before the last date of submission i.e. 22.02.2023 in the light of the fact that petitioner's technical bid was rejected on 11.05.2023. Petitioner's technical bid was rejected for want of necessary documents in respect of Registration Certificate of 24 Tank Trucks. In this regard, petitioner himself has admitted that it was not communicated to the official respondents due to technical glitch.

4. Learned counsel for the petitioner submitted that in respect of other bidders are concerned, the official respondents have sought queries whereas similar benefit has not been extended to the petitioner. Therefore, there is discrimination among the bidders. It is further submitted that providing details of the Tank Trucks, like Registration



Certificate is not mandatory. In support of this contention, learned counsel for the petitioner is relying on decision of this Court in the Case of ***Arjik Carrier Pvt. Ltd. Vs. The Chairman and Managing Director, Bharat Petroleum Corporation Ltd.*** in ***C.W.J.C. No. 174 of 2018*** decided on 22.02.2018.

5. Learned counsel for the petitioner submitted that if there are any technical glitch in filing application or bid through online in such an event the concerned authority was required to take note of and entertain the bid of the concerned party. On this point, learned counsel for the petitioner relied on decision of Rajasthan High Court rendered in the case of ***M/s Parshuram Transport Company Vs. Indian Oil Corporation & Others*** and connected applications also (***S.B. Civil Writ Petition No. 12833 of 2014***).

6. *Per contra*, learned counsel for respondent resisted the aforementioned contentions of the petitioner. It is submitted that as on 22.02.2023, the last date of submission of application/ bid, petitioner has failed to furnish details of 24 Tank Trucks, like Registration Certificate. It is further submitted that merely the petitioner is in possession of Registration Certificate in respect of 24 Tank Trucks and it is not made available to the official authorities before 22.02.2023, his



grievance cannot be entertained. It is also submitted that the cited decisions do not assist the petitioner. It is further submitted that petitioner has not made any efforts to even furnishing physical documents prior to 22.02.2023 and he has also not made any correspondence that there was technical glitch prior to 22.02.2023 and proceed to rectify the same prior to 22.02.2023.

7. Heard learned counsels for respective parties..

8. Perusal of the records it is noticed that NIT bearing Tender Reference No. RCC/ERO/37/2022-23/PT-125 is for providing Tank Trucks for supply of petroleum products from Barauni Terminal to different destination for supply of petroleum products to retailers. The last date of submission of bid/application is 22.02.2023. Petitioner had submitted bid prior to 22.02.2023. However, documents like Registration Certificate of 24 Tank Trucks were not made available to the official respondents along with the bid/ application on the score that there were certain technical glitch while submitting the bid through online. Once the petitioner had noticed that there were certain technical glitch insofar as forwarding document, like Registration Certificate of 24 Tank Trucks, he had an opportunity of approaching the concerned authority and apprising that due to technical glitch he could not forward



Registration Certificate of 24 Tank Trucks. He had also not made efforts to furnish the same prior to 22.02.2023.

9. In view of these facts and circumstances, the official respondents proceeded to reject the petitioner's technical bid on 11.05.2023 for want of Registration Certificate for each of the 24 Tank Trucks. In this backdrop, question for consideration is whether petitioner's document, like Registration Certificate of Tank Trucks could be entertained by the official respondents beyond 22.02.2023 or not? Undisputedly, petitioner has failed to furnish Registration Certificate of 24 Tank Trucks prior to 22.02.2023 or as on 22.02.2023, the last date of submission of application/bid. In order to overcome the aforementioned issue, learned counsel for the petitioner submitted that certain queries were posed by the official respondents to other bidders but the similar benefit has not been extended to the petitioner. The same cannot be accepted for the reasons that petitioner was well aware that as on the date of submission of application/bid through online he is unable to upload Registration Certificate of 24 Tank Trucks, in such an event he cannot expect the official respondents to pose a query.

10. Learned counsel for the petitioner submitted that if there are technical glitch in submission of technical bid it



would be overcome in terms of decision of the Rajasthan Court in the case of *M/s Parshuram Transport Company* cited (supra). It is to be noted that the aforementioned decision is not applicable and it is distinguished for the reasons that Courts cannot extend the last date of submission of application, in other words, Court cannot sit over the issue of Administration of an Organization insofar as extending last date of submission of application/bid.

11. Learned counsel for the petitioner submitted that production of documents is not mandatory as held by this Court in the case of *Arjik Carrier Pvt. Ltd.* cited (supra). The said decision is not applicable to the present case for the reasons that the petitioner has not assailed the relevant clause in the NIT to the extent that production of document along with bid is not mandatory. Unless and until such clause is questioned by him at the earliest point of time and at this belated stage he cannot take such contention. Moreover, he has not questioned such clause in the present writ petition also. Further it is to be noticed that after surrendering his right to participate in NIT bearing Tender Reference No. RCC/ERO/37/2022-23/PT-125 he cannot contend that certain clauses are mandatory or directory.

12. In view of these facts and circumstances,



petitioner has not made out a case.

13. Accordingly, the present writ petition stands dismissed.

14. At this stage, learned counsel for the petitioner submitted that other bidders have been extended certain queries and it has been complied by them which is subsequent to the last date of submission of application/ bid i.e. on 05.04.2023. If it is so, he has not questioned the official respondents' action insofar as providing or extending certain benefits to such of those other bidders.

15. Learned counsel for respondents submitted that no such queries have been made by the official respondents as contended by learned counsel for the petitioner and it is on record with reference to Annexure- R/4 and R/5. Therefore the aforementioned contention of the petitioner is without any substance.

(P. B. Bajanthri, J)

(Jitendra Kumar, J)

rakhi/-

AFR/NAFR	
CAV DATE	N.A.
Uploading Date	21.08.2023
Transmission Date	N.A.

