

30.11.2023
Item No.7
Ct. No.1
PG/KS

M.A.T. 1551 of 2023
With
IA No. CAN 1 of 2023
Jai Hind Logistics & Anr.
Vs.
Indian Oil Corporation Limited & Ors.

Mr. Abhratosh Majumder, Sr. Adv.,
Mr. Manoj Malhotra
Mr. Ravi Kumar Dubey
Mr. Kausheyo Roy
.....for the Appellants

Mr. Prasun Kr. Dutta
Mr. Ananta Shaw
Mr. S.D. Roy.....for the respondent no. 9

Mr. Kallol Basu
Mr. Joy Chakraborty
Mr. Samik Sarkar
Mr. Sandip Dinda.....for the respondent no. 10

1. This intra-Court appeal by the writ petitioner is directed against the judgment dated 19th July, 2023 in W.P.A. 4640 of 2023. In the said writ petition, the appellants had challenged the award of contract in favour of the private respondent for providing Tank Truck (TT) for road transportation of bulk petroleum products. The private respondent was the successful tenderer and the award of contract was challenged by the appellants before the writ court as being illegal, irrational and against the Wednesbury principles of natural justice.

2. The learned Single Bench after considering the submissions made on either side, dismissed the writ petition and aggrieved by the same, the present appeal has been preferred. The case of the appellants in the writ petition was that the last date for submission of subject tender through online was fixed on 30th November, 2022 and the registration certificates of all five tank trucks of the private respondent no.9 has been printed in Form – 23 i.e. in the Registration Certificates/RC Books only on 8th December, 2022 and, therefore, the private respondent no.9, in any manner, cannot upload the registration certificates along with the bid documents in the official portal of IOCL on 29th November, 2022 and without verifying the same, the issuance of the Letter of Intent in favour of the respondent no.9 is clearly violative of the appellants' rights protected under Articles 14, 19 (I)(g) and 21 of the Constitution of India.
3. It has been further submitted that on account of this inherent defect, the respondent no.9 had to be declared as technically not qualified and the Letter of Intent should not have been issued in favour of the private respondent. The tender document, which was floated by the IOCL relating to the subject-matter has been enclosed

in the stay petition and what would be relevant for the purpose of the case on hand is with regard to the documents, which have to be uploaded in the e-tender portal of IOCL for technical evaluation.

4. The list of such documents have been mentioned in page 25 of the tender document and Serial No.3A gives the description of the documents as “violating RTO registration for each ready TTs offered”. In the requirement column it has been stated “Clear scanned copy of RTO Registration Certificate [RC Book/Smart Card (Under Form 23/23A)] for each ready TTs offered to be uploaded”. The contention of the IOCL is that along with the bid document, the tenderer had uploaded a copy of Form – 23, the certificate of registration stated to have been downloaded on 29th November, 2022 signed by the Regional Transport Officer, Kohima. According to the appellants, this could not have been downloaded as they have obtained information from the R.T.O., Kohima, who has stated in the reply that with regard to the RC print out date, it is not available as no print out of RC taken before alteration. This issue appears to have been agitated before the IOCL, who have embarked upon a verification exercise by addressing the

Transport Department of the Government of Nagaland. The Regional Transport Officer, Kohima, Nagaland by reply dated 17th April, 2023 addressed to the Deputy General Manager, IOCL, West Bengal State Office has stated that in response to the letter of IOCL dated 24th March, 2023, as directed by the Transport Commissioner, Nagaland, Kohima it is stated that the copy of 15 numbers of the registration certificates received are registered in the office of the Regional Transport Officer, Kohima and found to be genuine. Therefore, the IOCL has proceeded on the said basis and awarded the letter of intent.

5. The learned senior advocate appearing for the appellants would vehemently contend that from the documents, which they were able to secure from the RTO, Kohima, it is clear that no RC was downloaded before the date on which the document or scanned copy was required to be uploaded in the IOCL tender e-portal. So far as the tender conditions are concerned, it states that the clear scanned copy of RTO registration certificate has to be uploaded. The tender condition does not state that it requires to be downloaded on a particular date and thereafter to be uploaded. The document, which has been

uploaded by the successful bidder is dated 29th November, 2022 and the time on which it was generated was 17:18:54 hours. The copy of the said certificate finds place in page no.374 of the stay petition and we find from the said copy, there is also a QR code. In any event, the IOCL has embarked upon an exercise to verify the genuineness of the registration certificates furnished by the private respondent but 15 such registration certificates and the Transport Commissioner of Nagaland was addressed, who in turn has directed the Regional Transport Officer, Kohima, Nagaland to send the reply, who has in no uncertain terms stated that these registration certificates have been issued in the office of the Regional Transport Officer, Kohima and have been found to be genuine.

6. Thus, in our view, the learned Single Bench was fully right in not entertaining the writ petition and interfering with the award of tender in favour of the private respondent.
7. Thus, we find no ground has been made to interfere with the order passed by the learned Single Bench.
8. Accordingly, the appeal stands dismissed.
9. No costs.

10. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)