

03.04.2023
Ct. 5
M/L 21
ab

WPA 25483 of 2022

Khan Bulk Carrier & Anr.

-Vs-

M/s. Hindustan Petroleum Corporation Ltd. & Ors.

Mr. Ashoke Kr. Gupta,
Mr. Sailesh Kr. Gupta,
Mr. Rathin Santra

... for the petitioners

Mr. Biswanath Chatterjee,
Mr. Sobhan Pathak

... for the respondent nos. 1 to 9/Oil Company

The petitioners are aggrieved by a decision of the Tendering Authority by which the petitioners' bid was rejected on the ground of Tender Clause 2(a) of the Tender Notice. The reason given, as would appear from the connected documents, is that the petitioners have offered the same tank trucks at more than one HPCL location.

Clause 2(a) of Tender Notice issued by the Hindustan Petroleum Corporation Limited (HPCL) for reverse auction is as follows:

"2. Submission of Tender;

- a) Tenderer should offer separate tank trucks for each location i.e. if the tenderer proposes to apply for more than one location, separate set of tank trucks shall be offered at each location. Same tank trucks (tender) offered for more than*

one location contract will be terminated for all the locations”.

The above tender Clause shows that the tenderer is under an obligation to offer separate set of tank trucks for each location if the tenderer proposes to apply for more than one location. The said Clause further provides that if this Clause is violated, the contract will be terminated for all the locations.

The affidavit-in-opposition of the Oil Company encloses a tabulated statement which shows that the petitioners before this Court offered four tank trucks which bear identical registration numbers as four Tank Trucks issued by one Sujan Road Lines for Mughalsarai Tender. It is clear from the statement that the four tank trucks issued by the petitioners for Haldia Tender were the same Tank Trucks which were issued by Sujan Road Lines for Mughalsarai Tender.

The petitioners do not have any answer to this tabulated statement except a bare denial in the affidavit-in-reply filed by the petitioners.

This Court had dismissed two writ petitions on similar facts by judgment and order dated 2nd March, 2023. The two writ petitions were *WPA 24259 of 2022 (M/s. Moumita Logistics & Anr. Vs. Hindustan Petroleum Corporation Ltd. & Ors.)* and *WPA 24265 of 2022 (Ajit Kumar Murmu Vs. Hindustan Petroleum Corporation Ltd. & Ors.)*.

The tender condition is clear that no tenderer should offer the same tank trucks for more than one location and separate set of tank trucks shall be offered for each location. The statement enclosed with the affidavit-in-opposition, which the petitioners had full opportunity to dispute by way of particulars including by showing that Sujan Road Lines offered separate set of tank trucks and was not connected with the petitioners, has not been disputed with compelling documents in the affidavit-in-reply.

This Court has found no basis to revert from the reason and the decision in *M/s. Moumita Logistics*. The decision shown on behalf of the petitioners namely, *Mohinder Singh Gill and another Vs. The Chief Election Commissioner, New Delhi and others, AIR 1978 SC 851* on the ground that the statutory authority cannot give subsequent explanations to improve its case does not apply to the facts of the present case since the impugned rejection clearly stated that the petitioners have violated Clause 2. (a) of the Tender Notice.

This Court hence sees no reason to interfere with the impugned decision. WPA 25483 of 2022 is accordingly dismissed without any order as to costs.

(Moushumi Bhattacharya, J.)