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WP Nos.3370 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2023

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THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.3370 of 2023 and
W.M.P. Nos.3437, 3438 and 11683 of 2023

M/s.South India Oil Corporation,
represented by its Proprietor
R.Masoodahmed

... Petitioner

Versus

1.Indian Oil Corporation Limited,
represented by its General Manager (Contract Cell),
SRO, Marketing Division,
Southern Region,
Indian Oil Bhavan,
No.139, Uthamar Gandhi Road,
(Nungambakkam High Road),
Chennai – 600 034.

2.Indian Oil Corporation Limited,
represented by its Chief General Manager (Ops),
Tamil Nadu State Office,
Indian Oil Bhavan,
No.139, Uthamar Gandhi Road,
(Nungambakkam High Road),
Chennai – 600 034.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the second respondent's impugned order dated 18.01.2023 vide

Ref:TNSO OPS/Asanur POL/TRTR/4141/2023-23/LOA-13 and quash the



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same and further direct the respondents to award the Work of Road Transportation of bulk petroleum products by bottom loading Tank Trucks – MS/HSD/Branded fuels Ex-Asanur Terminal (Location Asanur Terminal).

For Petitioner : Mr.S.Arivazhagan

For Respondents : Mr.Mohammed Fayaz Ali (IOC)

ORDER

Challenging the impugned order of the second respondent dated 18.01.2023 rejecting the petitioners application, the present petition has filed.

2. The case of the petitioner that he is a dealer under the respondents Corporation. The first respondent called for e-Tender vide its notification dated 23.09.2022 to transport the bulk petroleum products. The petitioner is a dealer and owning six number of tank truck vehicles. The petitioner following the conditions applied for the tender and had paid security deposit. The petitioner has satisfied the requirements of the tender notification and thereafter, Letter of Acceptance was issued and on security deposit was also deposited. All of a sudden, on 18.01.2023, the second respondent issued the impugned order cancelling the letter of acceptance stating that the terms and conditions of the letter of acceptance have not been complied within 15 days from the date of letter of acceptance.



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WEB COPY 3. The learned counsel for the petitioner submitted that the petitioner along with 12 persons participated in the e-tender, which was floated by the respondents. The petitioner being a successful tenderer, received the LOA only on 02.01.2023 and he had applied for bank guarantee on 12.01.2023 and the hard copy of the bank guarantee was received by the petitioner on 18.01.2023 and the same was submitted before the respondents on 18.01.2023. However, the respondents refused to accept the security deposit under the agreement stating that the terms and conditions of the letter of acceptance have not been complied with within 15 days from the date of letter of acceptance.

4. The learned counsel further submitted that due to pongal holidays, the Bank was continuously closed. Therefore, the delay in submission of the LOA cannot be put against the petitioner in the given facts and circumstances of the case and there is no fault on the petitioner's side. Hence, the learned counsel prayed that this Court may allow the writ petition.

5. The learned counsel for the respondents submitted that the petitioner is not the only person to participate in the tender. Totally, there were 12 persons participated in the e-tender. The petitioner was selected as the



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successful candidate and the LOA was communicated to the petitioner by way of email on 29.12.2022 and a letter dated 29.12.2022 communicating the LOA was also issued to the petitioner and the same was received by him on 02.01.2023. As per the conditions in the aforesaid LOA, the petitioner ought to have executed the Bulk Petroleum Products Road Transport agreement and furnished required security deposit within 15 days of the date of communication of the LOA. However, the petitioner herein failed to execute the bulk petroleum products, road transport agreement and furnish required security deposit within 15 days from the date of the communication of the LOA. Therefore, the order of the second respondent is perfectly in order and does not warrant any interference and the writ petition is liable to be dismissed.

6. Heard the learned counsel on either side and perused the materials available on record.

7. The facts of the case are not in dispute. Admittedly, the petitioner along with 12 person have participated in the e-tender dated 29.08.2022 which was floated by the respondents for transportation of bulk petroleum products.

As a successful candidate, the respondents sent the LOA to the petitioner



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through e-mail dated 29.12.2022 and the petitioner received the hard copy of

LOA on 12.01.2023. The petitioner claims that he drew the bank guarantee on 12.01.2023 and the same was submitted before the respondents on 18.01.2023 after expiry of 15 days due to continuous holidays. The petitioner, though received the LOA by e-mail on 29.12.2022 was not vigilant enough to apply for bank guarantee and submit the same within 15 days from the date of receipt of the hard copy of the LOA. However, persons, similarly placed like the petitioner, who were also successful in the e-tender had submitted the bank guarantee within the stipulated time. Therefore, in such a scenario, the petitioner cannot plead that the intervening Pongal holidays was the reason for not submitting the bank guarantee within the time frame. When the petitioner has consciously accepted the time limit for submitting the bank guarantee, without seeking for extension, the petitioner cannot submit the bank guarantee at his pleasure. The respondents were justified in rejecting the bank guarantee at his pleasure. The respondents were justified in rejecting the case of the petitioner and cancelling the allotment for non-compliance of the conditions of the tender. This Court, in exercise of its powers under Article 226 of the Constitution, cannot interfere with the order of the respondents when the said order does not suffer any perversity or illegality. Therefore, the prayer sought for by the petitioner cannot be acceded to.



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WEB COPY 8. For the reasons aforesaid, the writ petition is dismissed. However, liberty is granted to the petitioner to work out his remedy in the manner known to law, if aggrieved by the grant of tender to other successful person. No costs. Consequently, connected miscellaneous petitions are closed.

21.04.2023

Index : Yes/No

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To

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represented by its General Manager (Contract Cell),
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M. DHANDAPANI, J

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