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W.P.Nos.9041 and 9047 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2023

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.9041 and 9047 of 2023

And

**W.M.P.Nos.9167, 9169, 9170, 9175, 9176, 9177,
9172, 9178, 16397 and 16403 of 2023**

M/s.Sri Rajaganapathi Transports

Represented by its Proprietor

Mr.K.Surendther

... Petitioner in W.P.9041/2023

K.Balachandar

... Petitioner in W.P.9047/2023

Vs.

1.The General Manager (Contract Cell),
Indian Oil Corporation Limited,
(Marketing Division),
Indian Oil Bhavan,
Regional Contract Cell,
Southern Regional Office,
8th Level, No.139,
Uttamar Gandhi Salai,
Chennai – 600 034.

2.The Deputy General Manager (Contracts),
Indian Oil Corporation Limited,
Southern Regional Office,
(Marketing Division),
Indian Oil Bhavan,
Regional Contract Cell,
8th Level, No.139,
Uttamar Gandhi Salai,
Chennai – 600 034.

... Respondents in both the W.Ps.



W.P.Nos.9041 and 9047 of 2023

Prayer in W.P.No.9041 of 2023:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the second respondent herein vide his proceedings in Ref.No.Tender ID: 2022_SROTN_158107_2 dated 16.03.2023, in respect of the Technical evaluation for the tender of the petitioner and quash the same and consequently direct the respondents to evaluate the price bid of the petitioners tender submitted for 4 trucks bearing Temporary Registration No's.T1222TN8132K, T1222TN8199K, T1222TN 8194K and T1222TN8200K along with other admitted tenders and thereafter issue Letter of Acceptance (LOA) for the tender.

Prayer in W.P.No.9047 of 2023:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the second respondent herein vide his proceedings in Ref.No.Tender ID: 2022_SROTN_158107_2 dated 16.03.2023, in respect of the Technical evaluation for the tender of the petitioner and quash the same and consequently direct the respondents to evaluate the price bid of the petitioners tender submitted for 4 trucks bearing Temporary Registration No's.T1222TN8130K, T1222TN8203K, T1222TN8201K and T1222TN8133K along with other admitted tenders and thereafter issue Letter of Acceptance (LOA) for the tender.

For Petitioners : Mr.G.Arul Murugan
For Respondents : Mr.Mohammed Fazil Ali



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COMMON ORDER

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The petitioners have filed these writ petitions seeking issuance of Writ of Certiorarified Mandamus calling for the records of the second respondent vide his proceedings in Ref.No.Tender ID: 2022_SROTN_158107_2 dated 16.03.2023, in respect of the Technical evaluation for the tender of the petitioner and quash the same and consequently direct the respondents to evaluate the price bid of the petitioners tender submitted for their trucks along with other admitted tenders and thereafter issue Letter of Acceptance (LOA) for the tender.

2.Since the issue involved in these writ petitions are one and the same, they are heard together and disposed of by way of a common order.

3.The case of the petitioners is that the petitioners participated in the tender for transportation of LPG cylinders from CPCL – LPG bottling plant Manali of the respondent Corporation. The tender form can be downloaded from the official e-tender website and the tender download started on 06.12.2022 and closed on 16.12.2022. The date of opening of the technical bid was fixed on 17.12.2022. The petitioners filed their e-tender form on 16.12.2022, however, their bid



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were rejected for the reason that as per the original tender document the last date of bid submission is 06.12.2022 and the bid is technically disqualified as the date of registration of the truck is beyond 06.12.2022. Hence, these writ petitions.

4.The learned counsel appearing for the petitioners submitted that the respondents initially issued tender notice on 11.11.2022 and the tender download started on 11.11.2022 and closed on 06.12.2022. Thereafter, the respondents dropped the tender and opted to go for a fresh tender. Thereafter, fresh tender was issued on 06.12.2022, wherein the BOQ rate was completely different from the earlier tender notice. The fresh tender download started on 06.12.2022 and closed on 16.12.2022. The date of opening of the technical bid was fixed on 17.12.2022.

5.The learned counsel appearing for the petitioners further submitted that each of the petitioners purchased four new trucks on 14.12.2022 and got temporary registration of the trucks on 15.12.2022, which is prior to the tender closing date 16.12.2022, however, the bids of the petitioners were mechanically rejected on the ground that the date of registration of the truck is beyond 06.12.2022/



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closing date as per the original tender notice, which is not sustainable one.

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6.The learned counsel appearing for the respondents submitted that the respondents did not issue fresh tender notice and further submitted that BOQ rate alone was different in the subsequent tender and the starting and closing dates of the original tender cover the issue. Since the petitioners did not purchase the trucks prior to the date of closing of the original tender, their bids were rejected, which doesn't warrant any interference.

7.Heard the arguments advanced on either side and perused the materials available on record.

8.The facts in the present case is not in dispute. Admittedly, the petitioners participated in the tender for transportation of LPG cylinders from CPCL – LPG bottling plant Manali of the respondent Corporation. The subsequent tender download started on 06.12.2022 and closed on 16.12.2022. It is also not in dispute that as per Clause II.3 of Notice inviting tender, the vehicle should be purchased prior to tender closing date.



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9. Though the respondents initially issued tender notice on 11.11.2022 and the tender download started on 11.11.2022 and closed on 06.12.2022, thereafter, the respondents dropped the tender and a fresh tender was issued on 06.12.2022, wherein the BOQ rate was completely different from the earlier tender notice and the fresh tender download started on 06.12.2022 and closed on 16.12.2022. The date of opening of the technical bid was fixed on 17.12.2022.

10. The petitioners purchased four new trucks each, on 14.12.2022 and got temporary registration of the trucks on 15.12.2022, which is prior to the tender closing date 16.12.2022. Hence, the petitioners satisfied the tender conditions and their bid cannot be mechanically rejected. Therefore, the impugned order warrants interference.

11. The respondents are directed to evaluate the price bid of the petitioners tender submitted for their trucks along with other admitted tenders and if the petitioners have quoted lower bid amount, they are entitled to be considered as successful bidders.



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12. These writ petitions are allowed on the above terms. No costs. Consequently, the connected miscellaneous petitions are closed.

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Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

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(Marketing Division),
Indian Oil Bhavan,
Regional Contract Cell,
Southern Regional Office,
8th Level, No.139,
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2. The Deputy General Manager (Contracts),
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