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08.02.2024
Ct. No. 8
SB

MAT 2487 of 2023
CAN 2 of 2023
CAN 3 of 2024
with
WPA 24456 of 2023

In the matter of : Anup Gupta

Mr. Kalyan Bandopadhyay, Sr. Adv.
Mr. Sirsanya Bandopadhyay
Mr. Niladri Bhattacharjee
Mr. Soham Bandyopadhyay
Ms. Deblina Chattaraj
Ms. Priyanka Kundu
Mr. Aditya Chaturvedi
Ms. Angana Dutta
Mr. Pratik Acharjee
Mr. Anant Sanghi ... for the appellant.

Mr. Jaydip Kar, Sr. Adv.
Mr. Amit Kumar Nag
Mr. Partha Banerjee ... for the I.O.C.L.

1. We have heard the appeal and the applications at length yesterday and even today.
2. Mr. Kalyan Bandopadhyay, learned Senior Counsel has initially argued that the participation of tender through expression of interest process as contemplated in Clause 9 and 10 read with the other clauses in the technical bit are discriminatory and the appellant might suffer serious consequence if the members of the association who are willing to participate through EOI process ultimately did not accept the finalized L1 rates of the proposed tender for

the general transportation in respect of three locations now proposed to be advertised.

3. Mr. Joydeep Kar, learned Senior Counsel appearing on behalf of the IOCL has submitted that some members of the association have already participated EOI process which are now claimed to be arbitrary and said clauses are in existence since 2019 and are included in similar tender throughout the country.
4. In course of hearing it was suggested that if the members of the association who are willing to participate through EOI process could now be allowed to participate notwithstanding the fact that the time for participation through EOI process is over.
5. Considering the fact that any interim order at this stage would cause serious inconvenience to the supply of LPG cylinders in the areas covered by the proposed tender. The learned Counsel for the parties have suggested that the period of EOI process may be extended.
6. Mr. Kalyan Bandopadhyay has submitted that all points raised in the appeal may be kept open and if any occasion arises in future the members of the association may not be prevented from raising such legal issue.
7. Mr. Jaydeep Kar has submitted that in the event the appellant withdraws the writ petition and the appeal.

IOCL has no objection of the members of the association who are now willing to participate through EOI process may be allowed to participate within the period that may be extended by this court.

8. On the basis of the aforesaid submission and having regard to the fact that some of the members of the association has already participated and there are others who are willing to participate we permit the members of the appellant association to submit their EOI if they so desire positively on or before 19th February, 2024 and the IOCL shall be permitted to proceed with the tender for transportation of packed LPG cylinders for the three locations mentioned in the communication dated 2nd February, 2024 appearing at page 77 of CAN 3 of 2024.
9. In view of the aforesaid resolution of dispute we make it clear that we are not going to the merits of the matter and all questions raised in the writ petition are left open and the order of the learned Single Judge which is interim in nature shall not operate as res judicata.
10. Learned Senior Counsel for the parties have submitted that the writ petition may also be disposed of in terms of this order.
11. Accordingly by consent of the parties WPA 24456 of 2023 is also treated on the days list and shall be published in the supplementary cause list of this day.

12. With the aforesaid direction MAT 2487 of 2023 with CAN 2 of 2023, CAN 3 of 2024, WPA 24456 of 2023 are disposed of.

13. The department and the computer section is directed to make appropriate endorsement with regard to the disposal of the writ petition along with appeal and connected applications.

(Uday Kumar, J.)

(Soumen Sen, J.)