

OD - 15

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction

ORIGINAL SIDE

APOT/163/2024
IA NO: GA/2/2024
Union Of India And Ors
VS
Lupin Gases Pvt Ltd

BEFORE :
THE HON'BLE CHIEF JUSTICE T.S. SIVAGNANAM
And
THE HON'BLE JUSTICE HIRANMAY BHATTACHARYYA
Date : 22nd May, 2024

Appearance :
Mr. R.N. Bag, Adv.
Ms. Sharmila Datta Das, Adv.
Ms. Mary Dutta, Ad.
Ms. Anasuya Bhattacharya, Adv.
..for the appellant.

Mr. Ayan Dutta, Adv.
Mr. Bhupendra Gupta, Adv.
Mr. Anirudhya Dutta, Adv.
Mr. Hamidul Haque, Adv.
..for the respondent.

The Court : This appeal by the railways is directed against the order dated 13th December, 2023 passed in WPO/1830/2023. The writ petition filed by the respondent was allowed setting aside the order of rejection of the bid submitted by the respondent/writ petitioner at the technical stage and the appellant/railway administration was directed to proceed on the premise that the writ petitioner's bid was otherwise technically valid and shall take up the tender process from there onwards.

It appears that there were certain subsequent discretions and developments and the respondent/writ petitioner has filed an affidavit sworn to by the authorized representative who has been authorized by the Board Resolution dated 2nd December, 2023. In the said affidavit, it has been stated that the writ petitioner/respondent has tendered its withdrawal from the bid process by way of letter dated 14.5.2024 addressed to the third appellant and the writ petitioner/respondent should be allowed to withdraw its bid from the subject tender and the order passed by the learned Single Bench impugned in this appeal should be set aside by allowing the instant appeal. The request made by the writ petitioner/respondent vide letter dated 14.5.2024 has been accepted by the railway administration in their communication dated 15.5.2024 which is to the following effect :

"EASTERN RAILWAY

OFFICE OF THE PRINCIPAL CHIEF MATERIALS MANAGER 17.N.S.ROAD,
FAIRLIE PLACE, KOLKATA(W.B.)-700 001.

Dated 15.05.2024

No: S/Court Cell/LG/C-51

*Sri. R.N. Bag. Railway Government Sr. Counsel Gr-1,
4, Kiran Shankar Roy Road, Ground Floor,
Raja Chamber, Room No. 7. Kolkata-700103,
Mob: [9163060822](tel:9163060822)/[9433012625](tel:9433012625)*

Sir,

Sub: In the matter of Appeal APOT No 163 of 2023 before the Hon'ble Division Bench of Calcutta, High Court, challenging Court Order dated 13.12.2023. passed in Writ Petition Appeal WPO No- 1830 of 2023, in Union Of India & Ors.-vs- M/s Lupin Gases Private Limited

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As desired by you and in reference to the contention in the Affidavit submitted by M/s Lupin Gases in the subject captioned matter, Consent in Affirmation is given on behalf of the Railway Appellant. Further to setting aside the order dated 13.12.2023, passed in WPO No-1859 of 2023, Hon'ble Court may allow to continue with the present tender process, without any rights of further intervention in this tender case by M/s Lupin Gases Private Limited.

This has the approval of competent authority.

15/5/24
(Shibram Majhi)

Deputy Chief Materials
Manager/C&W/ER For Principal Chief
Materials Manager/ER

Copy to: Ms. Mary Datta, Railway Government Sr. Counsel Gr-II-
,1B, Old Post Office Street, Emerald House, Ground Floor, Room
No. 2, Kolkata-700001, Mob: [9051187903](tel:9051187903) - For information please.

For Principal Chief Materials Manager/ER"

In the light of the stand taken by the writ petitioner/respondent, the appeal is allowed. The order passed in the writ petition and the observations contained therein are set aside and the appellants are permitted to continue with the

tender process without any intervention by the respondent/writ petitioner.

No costs.

Affidavit of service filed today in Court is taken on record.

(T.S. SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)

