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W.P.Nos.16101, 16107 and 16118 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2024

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.16101, 16107 and 16118 of 2021
and

W.M.P. Nos.17028, 17030, 17031, 17038,
17039, 17042 and 17050 of 2021

W.P.No.1611 of 2021

M/s.Sri Lakshmi Gas Carriers,
Represented by its Proprietor,
M.Senthil Kumar

... Petitioner

Vs

1. The Deputy General Manager (Contract Cell),
Indian Oil Corporation Limited,
(Marketing Division),
Southern Regional Office,
8th Level, Indian Oil Bhavan,
No.139, Uttamar Gandhi Salai,
Nungambakkam High Road,
Chennai – 600 034.
2. The General Manager (Plant),
Indian Oil Corporation Limited,
Ennore Building Plant, (Indane Bottling Plant),
143, NCTPS Main Road, Athipattu Village,
Ponneri Taluk, Thiruvallur District,
Chennai – 600 102.



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3. The Chief Plant Manager,
Hindustan Petroleum Corporation Limited,
Madurai LPG Regional Office,
171-172, SIDCO Industrial Estate,
Kappalur, Madurai – 625 008.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent pertaining to his proceedings in Ref.No.TNSO/LPGO/ENBP/TPT/Black Listing dated 13.07.2021 in respect of vehicles bearing Registration No.KA01 AJ 3540, KA01AJ 3541, TN90 F 0285, TN90 F 0205, TN90 F 0277 and KA51 C 6065 and quash the same and consequently direct the first and second respondents to extend the time and allow the petitioner to execute the agreement and place the trucks for operation as per Letter of Acceptance (LOA) in SRCC/PT/138/TNSO/2020-21 dated 07.01.2021 by considering replacement of trucks and accepting the security declaration instead of security deposit.

W.P.No.16107 of 2021

M/s.Sree Venkatesa Transport Service,
Represented by its Proprietor,
C.Sathish Kumar

... Petitioner

Vs



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1. The Deputy General Manager (Contract Cell),
Indian Oil Corporation Limited,
(Marketing Division),
Southern Regional Office,
8th Level, Indian Oil Bhavan,
No.139, Uttamar Gandhi Salai,
Nungambakkam High Road,
Chennai – 600 034.
2. The General Manager (Plant),
Indian Oil Corporation Limited,
Ennore Building Plant, (Indane Bottling Plant),
143, NCTPS Main Road, Athipattu Village,
Ponneri Taluk, Thiruvallur District,
Chennai – 600 102.
3. The Chief Plant Manager,
Hindustan Petroleum Corporation Limited,
Madurai LPG Regional Office,
171-172, SIDCO Industrial Estate,
Kappalur, Madurai – 625 008.

... Respondents

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considering replacement of trucks and accepting the security declaration instead of security deposit.

W.P.No.16118 of 2021

M.Senthil Kumar

... Petitioner

Vs

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

2. The General Manager (Plant),
Indian Oil Corporation Limited,
Ennore Building Plant, (Indane Bottling Plant),
143, NCTPS Main Road, Athipattu Village,
Ponneri Taluk, Thiruvallur District,
Chennai – 600 102.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the second respondent pertaining to his proceedings in Ref.No.TNSO/LPGO/ENBP/TPT/Black Listing dated 13.07.2021 in respect of vehicles bearing Registration No.KA01 AJ 3542, KA01 AJ 3543 and



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KA01 AJ 3544 and quash the same and consequently direct the first and second respondents to extend the time and allow the petitioner to execute the agreement and place the trucks for operation as per Letter of Acceptance (LOA) in SRCC/PT/138/TNSO/2020-21 dated 07.01.2021 by considering replacement of trucks and accepting the security declaration instead of security deposit.

For Petitioner

all W.Ps : Mr.R.Nalliyappan

For Respondents : Mr.Mohammed Fayz Ali (for R1 & R2)
in all W.Ps

Mr.Vijayan

for M/s.King & Partridge (for R3)

COMMON ORDER

These Writ Petitions have been filed challenging the order passed by the second respondent dated 13.07.2021, thereby black listing the trucks bearing Registration Nos. KA01 AJ 3540, KA01AJ 3541, TN90 F 0285, TN90 F 0205, TN90 F 0277, KA51 C 6065, KA51 AF 7995, KA51 AF 7996, KA51 AF 8000, KA51 AF 6071, KA01 AJ 3542, KA01 AJ 3543 and KA01 AJ 3544.



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2. On a perusal of the order impugned in these Writ Petitions, it reveals that the petitioner was issued show cause notice dated 25.03.2021 to show cause as to why the Letter of Acceptance (LOA) dated 07.01.2021 should not be cancelled, EMD should not be forfeited and trucks should not be blacklisted, since the petitioner failed to comply with the tender terms and conditions as advised under the Letter of Acceptance i.e. not produced the trucks in 15 days from the date of Letter of Acceptance for physical verification/ not submitted SD/not submitted agreement. In pursuant to the said show cause notice, the Letter of Acceptance dated 07.01.2021 was cancelled and also blacklisted the trucks with effect from 12.06.2021. The petitioner had participated in the tender floated by the first respondent for transportation of Indane LPG Cylinders in vertical position on unit rate basis ex-Ennore LPG Bottling Plant from the LPG truck operators. The petitioner was declared as the successful bidder. Accordingly, the first respondent ordered Letter of Acceptance for trucks under various capacity of Cylinders. The petitioner's bid was accepted and he was issued Letter of Acceptance after a period of six months from the date of participation in the tender. However, the petitioner failed to produce those trucks within a period of 15



days as per the tender terms and conditions.

3. The relevant terms and conditions stipulated in the tender document, reads as follows:-

“4. General Instructions to Bidders (Page No.17 & 19)

17. Verification of Original Documents: Bidders through their authorized representatives should submit the following original documents for verification/submission to the supply location within 15 days of intimation or as specified failing which the defaulting bidder's bid shall be rejected and entire EMD forfeited:

19. In case, qualified L-1 bidder fail to place trucks and enter into agreement on depositing the security deposit within stipulated period of 15 days from issuance of LOA, IOC shall have the right to cancel the LOA.

5. Tender Evaluation Criteria (Page No.29)



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30. All the trucks for which LOA has been placed including the trucks under contract with other Oil Company/IOCL location should be placed for verification within 15 days of the placement of LOA at supply location.

31. All bidders accepting established L-1 (floor rate or other than floor rate) should submit signed contract Agreement as per the prescribed format and applicable security deposit within 15 days from the date of placement of LOA by IOCL, failing which the EMD deposited will be forfeited & offered truck/s will be blacklisted.

7. Standard Tender Conditions for Contract of Vertical Transportation of LPG Cylinders by Road (page No.31)

5.1 Successful bidders will produce trucks (Owned/attached) which have been finalized in the tender along with all Original Documents for verification at IOCL Bottling Plant within 15 working days of date of LOA/or at any time during the tendering process as directed by the



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Corporation.

5.3 In case bidders fail to place trucks for physical verification after issuance of LOA, then EMD for such trucks will be forfeited & non-reported trucks will be blacklisted.

5.5 Successful bidder would be required, before undertaking the contract, to execute our standard agreement within 15 working days from the date of offer letter failing which EMD is liable to be forfeited and the offer shall be withdrawn. Specimen of Agreement form is enclosed with these tender documents. Bidders are advised to carefully scrutinize the same before submitting their tender.

7.0 All the terms & conditions stipulated in the Notice inviting Tender, tender document, all tender related correspondence etc. shall form part of Contract.”

4. Therefore, the Letter of Acceptance dated 07.01.2021 was cancelled and also the trucks which were given by the petitioner was blacklisted without even mentioning the period. Normally, the contract has



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been awarded for a period of 3 years and the same was extended for another 2 years. Now, 3 years time almost expired by July 2024. That apart, it cannot be blacklisted for ever, since the petitioner had to participate in the next tender.

5. In view of the above, the impugned order dated 13.07.2021 is hereby quashed, insofar as the blacklisted trucks alone. The petitioner may be permitted to participate in the fresh tender in future.

6. In the result, these Writ Petitions are allowed as above. Consequently, the connected Miscellaneous Petitions are closed. No costs.

17.04.2024

Index:Yes/No
Neutral Citation/Yes/No
kv

To

1. The General Manager (Contract Cell),
M/s.Indian Oil Corporation Limited,
(Marketing Division)
Southern Regional Office

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WEB COPY “Indian Oil Bhavan”,
No.139, Nungambakkam High Road,
Chennai – 600 034.

2. The Manager (Contracts),
M/s. Indian Oil Corporation Limited,
(Marketing Division)
Southern Regional Office
“Indian Oil Bhavan”,
No.139, Nungambakkam High Road,
Chennai – 600 034.



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G.K.ILANTHIRAIYAN, J.

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