

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-10872-2024

Date of decision: 10.05.2024

Shubh Roadlines and another

....Petitioners

Versus

Bharat Petroleum Corporation Limited and others

....Respondents

**CORAM: HON'BLE MR. JUSTICE ARUN PALLI
HON'BLE MR. JUSTICE VIKRAM AGGARWAL**

Present: Mr. Kshitij Sharma, Advocate,
for the petitioners.

ARUN PALLI, J. (Oral)

The petitioners have prayed for the following substantive relief:-

“Civil Writ Petition under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari/mandamus or pass any other order/direction, with the prayer to set aside/quash the impugned tender Conditions No.8.5., to the extent that it creates an unreasonable classification of (standard/non-standard) tank lorries because firstly, the classification is not based on any intelligible differentia and in light of the law laid down in the cases of Controller and Auditor General Vs. Kamlesh Vadilal Mehta 2003. (2) SCC 349; secondly, the petitioner has placed on record unimpeachable documents i.e. the drawings of the tank lorries (having capacity of 20KL/22KL/23 KL) as Annexure P-13, P-14, P-15 and P-16 all dated nil which makes it clear there is literally no difference in the said tank lorries, (as pleaded and explained in Para No.3c. and 4i. of the writ petition); thirdly the said classification has been created only to the exclude/restrict the petitioners from getting a level playing field, even though public interest requires such level field (as explained in Para No.3c. and 4i. of the writ petition and direct the

respondent corporation to treat the tank lorries of the petitioner in 22/23 KL as standard size

And/or

Further issue of a writ in the nature of certiorari/mandamus or pass any other order/direction, with the prayer to set aside/quash the impugned tender Conditions No.26.5., to the extent that the cap imposed in terms of Clause 26.5.b has been wrongly removed in Clause 26.5.d. because firstly, with Clause 26.5.a. to Clause 26.5.c. operating first, there is literally no chance for Clause 26.5.d to operate at all (in case the cap of 25% is removed) and would surely exclude the 'non-standard tank lorries' of the petitioners completely.

And/or

During the pendency of the present petition, direct the respondents to treat the tank lorries of the petitioners with the capacity of 22KL/23KL as standard size for the purposes of evaluation/preparation of order of priority in view of the fact that even now the last date of submission of the tender is 14.05.2024, failing which an irreparable loss shall be caused to the petitioners in light of the law laid down in Deoraj Vs. State of Maharashtra and others 2004 4 SCC 697.”

At the outset, learned counsel for the petitioners submits that prior to the institution of this petition, the petitioners had even served the respondent authorities with a legal notice dated 01.05.2024 (P-10), as regards their concerns/grievances. However, even though the matter is time sensitive, but the respondents have not opted to respond. Resultantly, interest/rights of the petitioners continue to suffer. Thus, this petition.

Served with the advance copy of the petition, Mr. Raman Sharma, Advocate, for the respondents is present in Court. He submits that as the competent authority is already in seisin of the concerns/grievances of the petitioners, it would be expedient if this petition is disposed of, at this stage, to enable the respondent-authorities to consider and pass necessary orders on their legal notice (*ibid*), in

accordance with law. Further, he submits that before any such orders are passed, the petitioners shall also be heard. Thus, it is urged that authorized representatives of the petitioners may appear before the Chief Manager Operations, Lalru, and Manager Operations, Nalagarh, on 11.05.2024 at 3:00 PM, in Lalru Depot.

Learned counsel for the petitioners is agreeable to the course suggested by learned counsel for the respondents and submits that let this petition be disposed of, in terms of the statement made by him. However, it is urged that considering the sensitivity of the matter, the authorities be directed to take a final decision within a specified time.

In response, learned counsel for the respondents submits that appropriate orders shall be passed by 13.05.2024.

The petition is accordingly disposed of, in terms of the statements made by learned counsel for the parties.

This Court is sanguine that the authorities shall look into the matter in the right earnest. And the appropriate orders, assigning reasons in support thereof, shall be passed within the time indicated by the learned counsel for the respondents.

Needless to assert that this order shall not constitute any expression of opinion on the merits of the case of either party, for, as indicated above, the competent authority shall examine the concerns/grievances of the petitioners, strictly in accordance with law.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

10.05.2024
Ak Sharma

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No