

CWP-16662-2024

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-16662-2024 (O&M)Date of decision: 24.07.2024

Shanti Sudan Road Carriers and others

....Petitioners

Versus

Union of India 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)CM-11539-2024

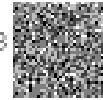
Application is allowed, subject to all just exceptions.

Correct memo of parties is taken on record.

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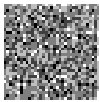
The petitioners are in the business of LPG Distributorships/Transportation of LPG cylinders/motor speed/high speed diesel with the respondent-Bharat Petroleum Corporation Limited (Corporation). Vide DNIT dated 29.01.2024 (P-1), the Corporation had invited bids from truck owners for award of contracts for packed LPG cylinder transportation for BPCL Lalru, LPG bottling plant, Punjab, for supplying to within State and outside State locations for a period of five years.

Learned counsel for the petitioners submits that what is being assailed in the petition at hand is clause 28 (g) of the tender document, which postulates, ***“Rates should be quoted after considering all expenses, including the cost of loading/unloading stacking/destacking of cylinders, both at BPCL’s Plant and Distributor’s end.”*** However, he submits that the grievance that the



petitioners have is: transporters cannot factor in the stipulated costs for multiple reasons, i.e. the location to which the LPG cylinders are to be transported is unknown, volume of LPG cylinders and number of trips, which would have to be undertaken, are also uncertain. Further, the cost of workers, as also the toll charges en-route to the distributors, can be determined only on issuance of work order, especially in light of the fact that charges on account of toll are not reimbursed to the transporters of LPG, unlike other transporters of essential commodities, such as motor speed/high speed diesel. He asserts that even the validity of clause 2 read with clause 7 (iv) and (v) of the Transport Agreement is also being questioned, for the combined effect of these clauses is that there would be no reimbursement with respect to the already existing toll tax, falling en-route to distributors. And thus, the same is discriminatory, for, in the tenders related to motor speed/high speed diesel, toll tax is reimbursed. Thus, there is no uniformity as regards toll tax by Public Sector Undertakings, such as Bharat Petroleum Corporation Limited, Indian Oil Corporation Limited etc. Therefore, in the given circumstances, it is submitted that if deemed suitable and necessary, the Corporation could also explore the option to refer the matter to the External Monitors, which are independent to take cognizance of the issues, in the wake of clause 20.00 of the tender document (page 80 of the paper book). He asserts that in response to the DNIT, the petitioners have already submitted their respective bids and the tendering process is at the stage of technical evaluation. It is urged that prior to the institution of this petition, the petitioners have even served the respondent authorities with a legal notice dated 06.07.2024 (P-4), but to no avail.

Served with the advance copy of the petition, Mr. Raman Sharma, Advocate, for the respondent-Corporation is present in Court. At the outset, 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 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, authorized representatives of the petitioners shall be heard, for which a formal communication shall also be issued, well in advance. However, he



fairly submits that till the formal orders, as indicated above, are passed, the tender in question shall not be finalized.

Learned counsel for the petitioners is agreeable to the course suggested by learned counsel for the respondent-Corporation and submits that let this petition be disposed of, in terms of the statement made by him.

In the wake of the position sketched out above and, in terms of the statements made by learned counsel for the parties, the petition is accordingly disposed of.

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, at the earliest.

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

24.07.2024
Ak Sharma

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