

2024:PHHC:070611



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

207

**CWP-27162-2018 (O&M)
Date of Decision: 16.05.2024**

VIKRAM DUTT KAPOOR

... Petitioner

VERSUS

BHARAT PETROLEUM CORPORATION LTD & ANR.

... Respondents

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ.

Present: Mr. Rahul Singh Birdi, Advocate
for the petitioner.

Mr. Raman Sharma, Advocate
for the respondents.

VINOD S. BHARDWAJ, J. (ORAL)

CM-16621-CWP-2021

Allowed as prayed for subject to all just exceptions.

The documents Annexure P-12 to P-14 are ordered to be taken on record. Registry is directed to tag the same at appropriate place of the paper book and page mark the same.

MAIN CASE

Prayer in the present petition is for directing respondent No.1 to comply with the Notification issued by Central Government and published in Gazette of India bearing No.SO3467(E) dated 16.07.2018 (Annexure P-4) and to increase the safe axle weight of Tank Trucks for the bulk transportation of LPG by road.



Learned counsel for respondent No.1-Bharat Petroleum Corporation Ltd. does not dispute the issuance of above mentioned Notification dated 16.07.2018, however, he contends that the DNIT in the present case was floated on 23.01.2018 and the last date for submission of bids was 20.04.2018. The technical bids were opened on 23.04.2018 and financial bids were opened on 19.07.2018. Agreement was duly executed with the petitioner on 19.11.2018. He contends that the financial bids were submitted by the bidders on the basis of the conditions prescribed in the tender document and that the subsequent notification, permitting the increase in safe axle weight, could not have been incorporated earlier as a tender condition on account of the tender process having already concluded. It is submitted that the duration of the aforesaid tender was for a period of five years and that new tender process has already been initiated by the respondents wherein the new conditions, as may have been issued by the Government of India from time to time, are being incorporated and that an extension has been granted to the existing contractors as a stop-gap arrangement till such time that the new tender process is concluded.

Apparently, the prayer made in the present is for carrying out a modification and to increase the axle weight of a tender process which has already outlived its total duration and is on extension subject to finalization of the new tender process by the respondent-Authorities. The new regulations and/or notifications have been taken care of by respondent No.1-Bharat Petroleum Corporation Ltd. in the fresh tender process which is going to be concluded very soon. The bids having been submitted by the petitioner as per the tender conditions including the financial bid after taking into consideration



the operational costs, apparently, the institution of the present writ petition was intended to increase the profit margin by seeking an increase in the safe axle weight of the tank trucks, even though the bids were submitted for the cartage of the LPG by road on the basis of the lower safe axle weight as notified by the respondents.

The terms and conditions on which the petitioner had submitted the bid and had been allotted the contract cannot be directed to undergo a change at this stage especially when it has no financial benefit for the State. On a pointed query as to whether the petitioner is willing to reduce the price bid submitted by him commensurating to the additional safe axle weight permission being granted to him, the response of counsel for the petitioner is that he has no instructions to reduce the price bid offered by the petitioner.

Under the given circumstances, I do not find any case being made out to relax the terms and conditions of the tender process that has already attained finality on the strength of the notification that was issued later in point of time.

The present petition is accordingly dismissed at this stage.

All other misc. application(s), if any, also stand(s) disposed of accordingly.

MAY 16, 2024
rajender

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No