



W.P.No.1648 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON: 20.03.2025

ORDERS PRONOUNCED ON: 28.03.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.1648 of 2025
and W.M.P.No.1892 of 2025

M/s IFP Petro Products (Pvt.) Ltd.
Having its Registered Office at
Unit No.702, 7th Floor, Office Tower – I
Plot No.BW-58, Logix City Centre, Sec-32
Noida, Gautam Buddha Nagar
Uttar Pradesh-201 301
Represented by its Director and
Authorized Representative Mr.Anant Bhargava

.. **Petitioner**

Vs.

The Chief Engineer, Mechanical – Thermal Station
& Gas Turbine Schemes, Tamil Nadu Power
Generation Corporation Limited
3rd Floor, Wester Wing, 114 NPKRR Maaligai
Anna Saalai, Chennai – 02.

.. **Respondent**

Prayer: Writ Petition filed under Article 226 of the Constitution of India
seeking a Writ of Certiorarified Mandamus, calling for the records of the



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respondent in relation to the tender for supply of Light Diesel Oil (LDO) to Udangudi Super Critical Thermal Power Project Stage-1(2 x 660 MW) of Tamilnadu Power Generation Corporation Limited Ref.No.CE/MTS/002/24-25 with respect to the impugned order dated 16.12.2024 issued to the petitioner herein, and quash the same as being arbitrary and illegal, and to further consequently direct the respondent to re-evaluate the Technical Bids submitted afresh, strictly in the manner provided for under the Tender Specifications and pass such further or other orders.

For the Petitioner	: Mr.R.Sankaranarayanan Senior Counsel for Mr.R.Praveen Deepan
For the Respondent	: Mr.P.Wilson Senior Counsel for Mr.K.Arun Prasad

ORDER

This writ petition is filed for a certiorarified mandamus to call for the records of the respondent concerning the tender for the supply of Light Diesel Oil (LDO) to the Udangudi Super Critical Thermal Power Project Stage – I (2 x 660 MW) of Tamil Nadu Power Generation Corporation Limited, referenced as No.C/MTS/002/24-25, in relation to the impugned order dated 16.12.2024. It



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seeks to quash the order and consequently direct the respondent to reevaluate the tender bids submitted, strictly in accordance with the specifications provided in the tender.

A.The Writ Petition:

2. The factual matrix in which the Writ Petition arises is that the respondent published a notice through the e-procurement portal, inviting tenders for the supply of LDO on 28.08.2024. The tender included a two-part evaluation process: Part I involved the opening of the Techno-commercial bid (Cover A), and Part II involved the opening of the price bid (Cover B). According to the specifications, only the price bids of the qualified and eligible bidders would be opened in Part II after evaluating the technical bids. The petitioner submitted its bid on 12.09.2024. After the submission process was completed, the technical bids were opened on 16.12.2024, and the results were uploaded to the portal following scrutiny. The petitioner's bid was rejected. As no reasons were provided on the portal, the petitioner sent a communication on 16.12.2024 expressing disappointment and disagreement over the rejection, and sought

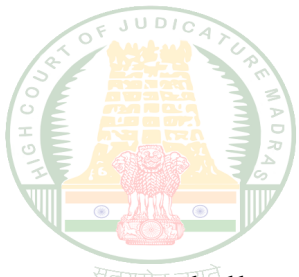


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clarification. In that representation, the petitioner asserted that it met the bid qualification requirements of the tender. The petitioner requested the respondent to postpone the financial bid until the queries raised by them were addressed. In response to this representation, the respondent replied on 19.12.2024. The reply stated that the documents submitted by the petitioner were not deemed a proper license for manufacturing. Furthermore, it was noted that the petitioner did not provide vendor ratings concerning the satisfactory execution of the purchase order with a minimum quantity of 500 KL supplied to Bharat Heavy Electricals Limited. The license granted by the Director of Industries and Commerce under the provisions of the Lubricating Oil and Greases (Processing, Supply and Distribution Regulations) Order, 1987 – 1988, cannot be considered as proof. Additionally, other reasons were mentioned in the order.

2.1. The petitioner further made a query under the Right to Information Act, 2005, and obtained some information on 12.04.2024. The information reveals that refining industries are deregulated and that no other license is mandated. Under these circumstances, the petitioner is before this Court



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challenging the actions of the respondent.

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B.Case of the Petitioner:

3. The petitioner asserts that, in evaluating the technical bid, the Bid Quality Requirements (BQR) are the relevant factors. There are only three conditions for a bidder to qualify: (i) The bidder must be a manufacturer or supplier of LDO; the manufacturer / supplier should provide a scanned copy of the registration certificate if the bidder is not a PSU, (ii) The bidder must have supplied a minimum total of 500 KL of LDO in one year to any of the following organizations: TANGEDCO (TNEB), other SEBs, PSUs, or private power utilities during any one of the last ten financial years, and (iii) The bidder's annual turnover must exceed Rs.8 Crores for all three financial years, specifically 2019 – 20, 2020 – 21, and 2021 – 22.

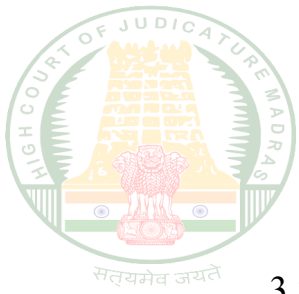
3.1. The information provided under the RTI indicates that the refinery industry is unregulated and does not require a license under any statute. The only license relevant to the State of Uttar Pradesh, where the petitioner operates,



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is the Lubricating Oil and Greases (Processing, Supply and Distribution Regulations) Order, 1987 – 1988, which the petitioner has already obtained. Upon receiving this license, the petitioner is authorised to commence operations by obtaining ‘consent to establish’ and ‘consent to operate’ from the State Pollution Control Board. The petitioner has received both consent to establish and consent to operate. The same were granted after the Pollution Control Board verified compliance of all requirements. The petitioner has provided these two documents as proof. The second requirement in the BQR stipulates that the petitioner must supply a minimum total quantity of 500 KL of LDO in a single order to one of the listed organisations, including Public Sector Undertakings. The petitioner successfully supplied this quantity to Bharat Heavy Electricals Limited, and the relevant invoice and acceptance documents are uploaded as proof of this qualification. Additionally, the bidder's annual turnover must exceed 8 Crores, which the petitioner also meets, with the relevant documents uploaded. Therefore, since the petitioner is fully qualified for the bid, the technical bid should have been accepted.



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3.2. The additional reasons mentioned, such as the petitioner manufacturing LDO from used oil and related storage and manufacturing capacities, pertain to the performance of the contract rather than the qualifications at the technical bid level. Once the petitioner qualifies according to the BQR, the respondent erred in rejecting the bid. Therefore, the respondent must be directed to proceed from the stage of accepting the petitioner's tender, opening the petitioner's price bid and subsequently making a decision. Each reason outlined in the communication dated 19.12.2024 has been adequately addressed or refuted, as stated in the Writ Petition, which asserts that these grounds cannot be considered for disqualifying the petitioner.

C.Case of the Respondent:

4. The Writ Petition was resisted by filing a detailed counter affidavit.

4.1. They assert that the appropriate committee evaluated the techno-commercial bid and determined that the petitioner does not qualify. According to them, there is no proper license for manufacturing regarding the LDO, which



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adheres to the IS 15770:2021 standards. Furthermore, it was concluded that the petitioner did not present the necessary license to manufacture. The petitioner's storage capacity is only 40 KL, and its annual manufacturing capacity is quite limited, with a daily production capacity of only 1,000 KL. Given the large quantity of LDO to be supplied, the petitioner was assessed as unqualified. It is a relevant consideration for the respondent to take into account the petitioner is capable only of manufacturing annually 5,600 KL of re-refined oil, that too from used oil. Therefore, they request that the Writ Petition be dismissed.

D.The Submissions:

5. Heard, *Mr V. Sankaranarayanan*, the learned Senior Counsel appearing on behalf of the petitioner, and *Mr P Wilson*, the learned Senior Counsel appearing on behalf of the respondent.

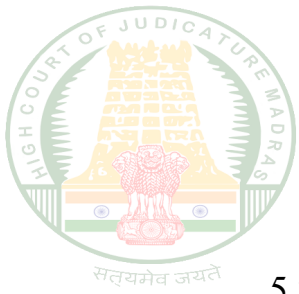
5.1. *Mr V. Sankaranarayanan*, the learned Senior Counsel, takes this Court through the pleadings and the rejoinder filed, explicitly emphasising the information obtained under the RTI Act. He submits that when the refining



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industry is deregulated, no other license can exist beyond the one produced by the petitioner. Even the other bidders declared successful have not provided any license. While the petitioner's case has been rejected for not producing the license, the respondents have not clarified which statute governs the required license. The grounds related to the license mentioned in the order dated 19.12.2024 are thus arbitrary and demonstrate a lack of application of mind. Regarding the quality of LDO, it is evident from the tender document that it pertains to performance, which will be assessed at a later stage. After submitting the bid, the petitioner also obtained the license under IS 15770:2021. Therefore, this cannot be a valid reason to reject the petitioner during the scrutiny phase. The argument presented before the Court that the petitioner manufactures from used oil is also invalid, as it was not a tender condition to exclude those who manufacture from used oil. By comparing both processes, the learned Senior Counsel submits that there will ultimately be no difference in the quality of the LDO supplied. The LDO is required to meet specific specifications, which it will. Thus, the reasoning provided is legally incorrect.



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5.2. The learned Senior Counsel further submits that the petitioner has provided proof of supplying more than 500 KL in one bulk to BHEL. According to the tender conditions, if any further particulars are necessary, the respondent can seek them from the said organisation directly. The reasoning mentioned in the order dated 19.12.2024, which is provided in response to the petitioner's email, does not correspond to the BQR that has been prescribed. Some arguments made in the counter affidavit are not even referenced in the impugned order. The reasons concerning storage capacity and daily manufacturing capacity are all unsustainable, as these were not made preconditions for qualification. In any event, the petitioner has storage capacity, and its manufacturing capacity has increased; had the respondent asked for those details, the petitioner would have provided them. Therefore, the respondent erred in rejecting the petitioner at the technical bids stage.

5.3. The learned Senior Counsel would rely on the Judgment of the Hon'ble Supreme Court of India in ***Rashmi Metaliks Limited and another Vs. Kolkata Metropolitan Development Authority and others***¹, specifically

¹ (2013 17 SCR 345)



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referencing paragraph No.12 to argue that what is not mentioned in the impugned order cannot serve as reasons to uphold the respondent's actions.

5.4. *Per contra*, Mr. P. Wilson, the learned Senior Counsel appearing on behalf of the respondent, submits that the petitioner is required to provide the vending rate, which the petitioner has never submitted. The manufacturing license that must be produced should be viewed in light of the tender requirements. The tender documents clearly state that, as per Clause 16, the LDO must comply with IS 15770: 2021 standards, while the license produced by the petitioner adheres only to IS 15770: 2008 standards. There is a fundamental difference in terms of quality, as the testing required for IS- 15770: 2021 pertains to American testing standards. Therefore, when the petitioner originally submitted the bid document, it did not meet the IS standards, and hence, it is appropriate for the authorities to conclude that the petitioner did not produce the manufacturing certificate. The oil proposed to be supplied by the petitioner is a re- refining of used oil, whereas other manufacturers plan to supply LDO refined from crude oil. The LDO intended for procurement was

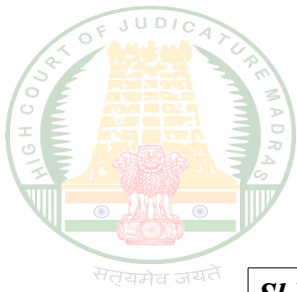


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never supposed to come from used oil, which would compromise quality. Thus, rejecting the petitioner on the grounds of not providing a valid license is justified. The petitioner produced documents indicating a storage capacity of only 40 KL, a manufacturing capability of 1000 KL per day, and an annual manufacturing capacity of 5760 KL. Given that the tender requires a significant supply of 16200 KL, the petitioner cannot be selected by the respondent organisation. The other participants chosen in the Part – I process include Bharat Petroleum Limited, Hindustan Petroleum Limited, Reliance Petroleum Limited, and Indian Oil Corporation Limited. There was no arbitrary rejection or unfairness in the process. The Udyam Registration Certificate is based on self-declaration, and the appropriate expert committee made a decision prior to initiating this tender not to accept it. Therefore, the fact that the Udyam Registration Certificate was accepted in an earlier tender does not necessitate its acceptance in the current case.

5.5. The learned Senior Counsel will rely on the following judgments in support of his submissions:



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Sl.No.	Cause title and citation	Paragraphs relied upon
1.	<i>Mumbai International Airport Pvt. Ltd. Vs. Regency Covention Centre and Hotels Pvt. and Others</i> (2010) 7 SCC 417	15
2.	<i>Uflex Ltd.Vs. Government Of Tamil Nadu and Others</i> (2022) 1 SCC 165	42, 47 and 49
3.	<i>N.G.Projects Ltd. Vs. Vinod Kumar Jain and Others</i> (2022) 6 SCC 127	23
4.	<i>Raunaq International Ltd. Vs. I.V.R Construction and Others</i> (1999) 1 SCC 492	11
5.	<i>Afcons Infrastructure Ltd. Vs. Nagpur Metro Rail Corporation Ltd. and Another</i> (2016) 16 SCC 818	13 & 14
6.	<i>Balaji Ventures Pvt. Ltd. Vs. Maharashtra State Power Generation Company Ltd. and Another</i> 2022 SCC Online SC 1967	9 and 10

E. Discussion & Findings:

6. I have considered the rival submissions made on both sides and reviewed the material records of the case.



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6.1. In this case, the order challenged in the Writ Petition, dated 16.12.2024, is uploaded on the portal; therefore, it did not contain any details. It only mentions the following:

“rejected – technical

BQR not satisfied”

6.2. Thereafter, the petitioner made a detailed representation on 16.12.2024. In their representation, they submitted information regarding their valid DIC license, consent to operate, GEM vendor assessment report by the Quality Control of India, and more. They also highlighted their facilities and other locations, noting that they received BIS approval for manufacturing LDO in IS 15770:2021 standards. It is essential to extract the relevant portions, which read as follows:-

“We have fulfilled this requirement by submitting the following documents:

1. Our valid DIC License -

It is crucial to note that our DIC (Director of Industries and Commerce) License is issued under the Lube Control Order, a notification issued by the Ministry of Petroleum itself. This Order designates the respective State DIC Office as the nodal agency for



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the regulation of activities related to the processing and supply of lubricants and other petroleum products. The license granted to us as a processor under this Order is a testament to our compliance with the regulatory framework established by the Ministry of Petroleum.

I would like to draw your attention to the specific page of the DIC License in English, where it unequivocally states our authorization as a processor. In item no. 18, Light Diesel Oil (LDO) is explicitly mentioned, along with our brand name, Heat XM. Additionally, the IS Number equivalent to Light Diesel

01 IS 15770 is also clearly indicated in the relevant column, further affirming our specialization in manufacturing LDO that meets the prescribed standards.

Furthermore, we have attached the Lube Control Order itself for your reference. This document outlines the definition of a processor, under which our operations fall, and explicitly states the criteria for granting licenses for manufacturing and as a processor.

We trust that this additional information clarifies the robustness and legitimacy of our DIC License and underscores our credibility as a reputable manufacturer and supplier of Light Diesel Oil.

2. Furthermore, our Consent To Operate (CTO) explicitly states our manufacturing capacity for LDO as a product, which is 1000 MT per month.

To provide further context on our manufacturing capacity for Light Diesel Oil (LDO) as outlined in our Consent to Operate (CTO). These documents serve as concrete evidence of our eligibility to participate in the current tender and establish our credibility as a reliable supplier of LDO.

It is important to note that the Ministry of Environment, Forest, and Climate Change has entrusted the Central Pollution Control Board (CPCB) with the authority to issue licenses to operate manufacturing facilities. The Central Pollution Control Board, in turn, has delegated the power to issue operational licenses to respective State Pollution Control Boards (SPCBs).

These boards are designated as the competent authorities for ensuring compliance with environmental regulations at the manufacturing facilities.

In reference to our Consent to Operate, on Page 1, under number 4, Heat XM (LDO) is explicitly mentioned, along with our manufacturing capacity of 1000 MT per month. This clear



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indication in our CTO reaffirms our capability to produce and supply Light Diesel Oil in accordance with the specified standards and quantities.

The state pollution control board, being the competent authority responsible for overseeing environmental compliance at manufacturing facilities, validates our adherence to the necessary regulations and standards in our operations.

3. GEM Vendor Assessment Report by Quality Control of India (QCI) - We are a bonafide and registered OEM supplying LDO on GeM satisfactorily supplying to companies registered as buyers on GeM as an OEM.

We trust that this detailed information provides a comprehensive understanding of our manufacturing capacity for LDO and our compliance with Statutory and environmental regulations. If you require any additional information or clarification, please feel free to reach out to us.

It is important to note that other non-PSU bidders, such as RIL, have submitted documents that only certify their capacity to supply Motor Spirit (MS) and High Speed Diesel (HSD), not LDO, In contrast, our documents clearly establish our eligibility to supply LDO.

We would also like to highlight that we were a qualified bidder in the most recent tender floated by your kind organisation Ref: Tender Specification No. CE/MTS & GTS/ OT.No.003/23-24 of product Light Diesel Oil (LDO) for quantity of 6000 KL dated 11.09.2023 for five locations., as evidenced by the attached screenshot. We participated in the tender process in accordance with all stipulated guidelines and successfully qualified the technical bid phase concluded on 05/01/2024. Our observations regarding that tender were addressed in great detail in a letter dated 28/06/2024, where in the reply dated 24/07/2024 from TANGEDCO, our technical qualification was reaffirmed.

Our past supplies to prestigious organizations like HEL, wherein we have supplied a total quantity of 4500 K., further attest to our expertise in the field. The completion certificate is attached herewith for your reference.

Additionally, we have successfully supplied to organizations like NALCO and The Indian Railways, further establishing our credentials as a manufacturer/supplier of Light Diesel Oil. This aligns with Point Number 2 of the Bid Qualification Requirement



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(BWR), which we fulfill as well. We are happy to supply the relevant Further, We are currently in the process of obtaining a BIS Mark for LDO, which will further solidify our position as the sale BIS approved manufacturer and supplier of LDO. Our application number for the same is 87002458 and an attachment for the same is attached herewith. We are expecting approval of our licence by the end of this month in addition to our already supplied documents.

We trust, urge and request in all earnest for you to reconsider your decision and qualify our bid for the technical evaluation. We urgently request you to ensure that we are technically qualified and are eligible to participate in the price bid opening scheduled for tomorrow - 17/12/2024, 14:30.

We acknowledge the substantial quantity involved in the current tender and respectfully request to be considered for participation in the financial bid opening, with provisions under the Micro, Small, and Medium Enterprises (MSME) category to secure a smaller quantity to initiate our partnership. We are eager to demonstrate our capabilities and commitment to meeting TANGEDCO's requirements, and believe that this approach will facilitate a gradual ramp-up of our supply capacity and establish a strong foundation for a long-term and mutually beneficial relationship. Thank you for your consideration and we look forward to the opportunity to contribute to TANGEDCO's success."

6.3. The respondent issued a reply on 19.12.2024, addressing each argument made in the said representation, which reads as follows:-

"In this regard, the following are stated:

As per tender conditions, bidder should furnish scanned copy of certificate of registration (license) as proof for being a manufacturer / supplier. Further, as per tender conditions all documents uploaded should be in English only.

You have uploaded the following documents in support of being a manufacturer:

1. Udyam Registration Certificate:

- Udyam registration certificate cannot be considered as a license



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or permit and hence, not considered as proof for being a manufacturer.

2. Consent to operate order number 197493/UPPCB/Ghaziabad (UPPEBRO)/ CTO/ both/GHAZIABAD/ 2023, dated 26.12.2023, Issued by Uttar Pradesh Pollution Control Board.

- Consent to operate given by the State Pollution Control Board based on the application of M/s. IFP Petro Products (P) Ltd., Ghaziabad stipulating the norms for effluent, air noise pollution and it cannot be considered as license to manufacture Petroleum products.

3. Renewal of license no: 87/RM-8/D.L.U.P/ from 7/3/2024 to 14/12/2027, to carry on the business of a processor, subject to the terms and conditions and provisions of the lubricating oils and greases order: 1987-88.

- The above License issued by the State Authority has been issued under the provisions of Lubricating Oils end Greases – Processing, Supply and Distribution Regulations only. This cannot be considered as a proof of being a manufacturer of Petroleum products. Further, it is observed in the license that the capacity installed for re-refining is 5760 KL per year and the capacity for blending Oil is 5400 KL per year.

4. License to import and store petroleum vide application no: P/HQ/UP/15/4550 (P118775), renewed online till 31/12/2025 by PESO and approval issued by PESO vide ref. no. A/P/CC/UP/15/149 (P522315) dated 18.11.2021, for storage of petroleum products of class C, not exceeding 40 KL.

- The license issued by PESO for import and storage of Petroleum products cannot be considered as license to manufacture of petroleum products.

5. Vendor assessment report VA-33811463 On M/s. IFP Petro Products (P) Ltd. By M/s. QCI furnished.

- QCI validated Vendor assessment report VA-338114631961213 furnished in the GEM (Government, e- market) portal cannot be considered as license to manufacture Petroleum products. It is observed that the report is based on the information provided by the officials of the concerned entity through set disclosure and QCI accepts no responsibility on the authenticity.

6. A document in Hindi. It is not clear whether it has been uploaded as a proof of being a manufacturer of petroleum products.

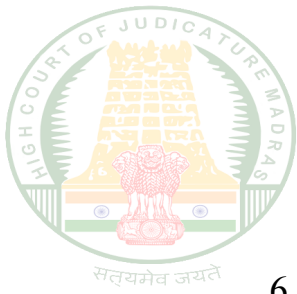


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- As per Tender Specification Section IV, Clause 4.6, all the documents uploaded by the bidder has to be in English only. Hence, this document was not considered. In the view of the details stated above, your bid was not considered for further processing. As per the Tender Conditions, the bidders other than PSU should enclose the vendor rating for the satisfactory execution of the concerned Purchase order (minimum Quantity of 500 KL) and satisfactory performance of the product supplied. You have uploaded the following documents for the above condition. TINPGAL's observations on the above are given below:
 1. Copy of M/s. BHEL P.O No. FB-190-7200015776/43 dated 14.08.2023 for a total quantity of 3600 KL. of LDO, along with supply completion certificate dated 10.09.2024.
 - Supply completion Certificate issued by M/S. BHEL for a quantity of 4500 KL against the above PO for 3600 KL does not mention anything about the performance of M/s. IFP Petro Pruducts (P) Ltd, in the execution of the contract or about performance of the product supplied.
 - 2. Copies of three purchase orders issued by M/s. Western Railway for total quantity of 120 KL of LDO along with End User Certificate from Western Railway dated 24.11.2023 for 48 KL
 - The quantity of supply is less than the supply is less than stipulated quantity of 500 KL.
 - 3. Copy of M/s. Northern Railway PO.N0.04200073102095 dated 31.05.2021 for total quantity of 72 KL along with End User Certificate dated 24.11.2023 for 72 KL, Issued by the Northern Railway.
 - The quantity of supply is less than the stipulated quantity of 500 KL.
- It may be noted that there is no provision in the tender for consideration of your bid under MSME category.”



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6.4. Thus, it is evident that the order dated 19.12.2024 is not the original order rejecting the tender, but rather a response to the representation. Consequently, the arguments presented by both parties regarding the order dated 19.12.2024 are secondary, and the Court must focus on the reasons provided by the tender committee for rejecting the petitioner's technical bid. When the results are communicated through the web portal, simply stating the result alone without publishing all the reasons in detail cannot be deemed erroneous. Therefore, this Court instructed the respondent to provide the proceedings of the tender committee and its reasons for rejecting the tender. Following this directive, a copy was also supplied to the petitioner, who subsequently reviewed it. The proceedings reads thus:

“4.1 NON COMPLIANCE OF sBQR BY IFP PETRO PRODUCTS, GHAZIABAD:

BOR 1: M/s. IFP Petro Products (Pvt.) Ltd, Ghaziabad 1. The Firm, M/s. IFP Petro Products (Pvt.) Ltd, Ghaziabad have enclosed Udyam Registration Certificate (UDYAM-UP-29-0071424) for proof of manufacture of refined Petroleum Products.

It is to be noted that as per MSME Govt. portal, the registration process is fully online, paperless and based on self-declaration. No documents or proof are required to be uploaded for registering as MSME. Only Aadhar Number will be enough for registration. Any number of activities including manufacturing or service or both may be specified or added in one Registration.

Udyam Registration Certificate for manufacturer proof had not been insisted in the BQR approved by the BOARD of TNPGL.



Such being the case, Udayam Registration Certificate cannot be considered as a proof of being a manufacturer of LDO,

2. The Firm has also enclosed a Copy of license for Registration issued by Govt. of Uttar Pradesh on 07.03.2024 valid up to 04.12.2027 subject to the provision of the Lubricating Oils and Grease (Processing, Supply and Distribution Regulations Order 1987-88). As per the license enclosed, the installed capacity for refining is 5760 KL per year and blending oil is 5400 KL per year.

The above Order states that the licence has been issued for the purpose of Processing, Supply and Distribution of lubricating oil or grease only. Hence, the certificate cannot be considered as a proof for being a manufacturer / Supplier of LDO.

3. The Firm has enclosed the licence issued on 18.11.2021, by the Ministry of - Commerce and Industry, Petroleum and Explosives Safety Organization (PESO), wherein, M/s. IFP Petro Products, Ghaziabad has been permitted to store Petroleum Class C Fuel (LDO) not exceeding 40 KL only. PESO licence for 40 KL storage Capacity cannot be considered for satisfaction of BQR condition.

4. In the QCI Validated Vendor assessment report dated 11.10.2023 from the GEM (Government e-market) portal enclosed by the bidder, the total LDO manufacturing capacity of the firm per month is 1000 KL only. As per notice of the QCI, the vendor assessment report is based on the information provided by the officials of the concerned entity through self disclosure and QCI accepts no responsibility on the authenticity, Hence, QCI assessment report cannot be considered as proof of being a manufacturer / supplier.

It is to be noted that the requirement of LDO for Udangudi thermal power project for the commissioning activities is 16200 KL, which may require 3000 KL per month during initial stages of commissioning process as observed in the recently commissioned NCTPP-III.

No document issued by Govt. of India for the proof of being a manufacturer/ supplier of petroleum products/ LDO is enclosed.

Hence, the Firm has not fulfilled the BQR condition 1. BQR 2 The firm has enclosed copy of M/s. BHEL P.O No. FB-190-7200015776/43 dated 14.08.2023 for a total quantity of 3600 KL of LDO. They have enclosed Supply completion Certificate issued by M/s. BHEL for 4500 KL mentioning the above PO (3600 . KL) and the certificate does not mention anything about the execution of the contract and performance of the product.



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The Firm has enclosed M/s. Western Railway (various Pos) for total quantity of 192 KL of LDO along with End User Certificate for 48 KL, which is less than the required quantity of 500 KL. to satisfy the BQR 2.

The Firm has also enclosed Mis. Northern Railway PO.No.04200073102095 dated 31.05.2021 for total quantity of 72 KL of LDO along with End User Certificate for 72 KL which is less than the required quantity of 500 KL to satisfy the BQR 2. . -

Hence, the Firm has not fulfilled the BQR condition 2, BOR 3: _ The firm has enclosed the annual audited balance sheets for the year 2020-21, 2021-22, and 2022-23 for the annual turnover of more than 30 crore. Hence, the . firm has satisfied the BQR condition 3.

From the above, it is observed that the firm M/s. IFP Petro Products (Pvt.) Ltd, . Ghaziabad have not satisfied the BQR conditions 1 & 2. Hence, the firm is not eligible for further process of this tender.”

(Emphasis supplied)”

6.5. The rejection of the petitioner's case regarding the non-production of a license for manufacturing and supplying petroleum products cannot be upheld. Simply stating that no document from the Government of India has been produced cannot be accepted by this Court, as the respondent fails to specify under which statute or regulation the license would be issued. There is nothing erroneous in the respondent's decision to disregard the Udyam Registration Certificate. However, given that there is only one regulation, namely the Lubricating Oil and Greases (Processing, Supply and Distribution Regulations) Order, 1987 – 1988, applicable in the State of Uttar Pradesh where the petitioner

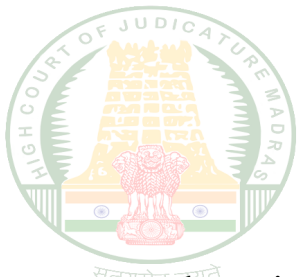


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operates, and considering that the petitioner holds a license under that Act along with the consent to operate issued by the relevant Pollution Control Board, the reasoning for rejecting the petitioner on the basis of not meeting BQR condition No.I for the non-production of a manufacturing license cannot be accepted.

6.6. Furthermore, although *Mr Wilson*, the learned Senior Counsel, presents an argument that the manufacturer must adhere to the guidelines established by the manufacture of LDO of IS-15770:2021 and this Court must also consider the tender floating authority's interpretations of the terms used in the tender conditions, but it is clear that this reasoning is not mentioned by the committee while rejecting the petitioner's bid. Consequently, new justifications cannot be introduced to validate the action. Similarly, while it is well within the authority of the tender floating authority to accept only LDO produced from crude oil and reject LDO manufactured from used oil, this stipulation was not explicitly stated as a tender condition. Even if it could be implied from the term 'manufacturer of LDO, ' this rationale is not articulated in the referenced tender committee proceedings. Thus, this would constitute another new justification for



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the action, which the Court cannot accept.

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6.7. However, while referring to BQR No.1 and other BQRs, the tender committee considered the storage capacity and overall manufacturing capacity. In this regard, the learned Senior Counsel appearing on behalf of the petitioner now points out additional facilities, etc. However, it was the petitioner's responsibility to present these details properly at the time of submitting the bid. Another argument is that other conditions cannot be considered at the stage of opening the technical bid, where the respondent should focus only on the BQR. Once the petitioner qualifies as per the BQR, there is no basis to reject the technical bid. In this regard, it is essential to refer to the tender conditions.

6.8. The opening of Part – I (Cover A) is governed by Clause 6 of the tender conditions, which states as follows:

“6.0 OPENING OF TECHNO-COMMERCIAL BID (COVER A) (PART I):

During tender opening, the Techno-Commercial bids (Cover A) will be opened electronically by the nominated members on the specified date and time as specified in the tender invitation.

The EMD and Techno-Commercial bids will be evaluated and the bids which are found to be in accordance with the tender



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requirement will be shortlisted as eligible bids and the respective bidder shall be qualified as eligible bidders.”

Section I contains only an opening of price bids. Thus, it can be seen that Clause 6 also speaks about the commercial terms, not just the BQR qualification. Further, Section III of the tender documents relating to the rejection of tenders, Clause II (d) reads as follows:

“d). Not in conformity with TNPGL’s Commercial terms and Technical Specifications.”

6.9. Therefore, it can be seen that the respondents are entitled to examine both the commercial terms and technical specifications. It is not the case that only the eligibility conditions mentioned in the BQR need to be considered at the time of opening Cover – A. The impugned proceedings of the tender committee must be read as a whole. In addition to considering the BQR, they evaluated the commercial viability of the petitioner as a supplier. The tendering authority assessed factors such as storage capacity and monthly manufacturing capacity, concluding that the petitioner could not be successful. Consequently, when the tendering authority considered the background and capacity of the



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petitioner, it chose to reject the bid, this Court, in exercising jurisdiction under Article 226 of the Constitution of India, would be slow to interfere in the matter. More importantly, the Courts must intervene in the tender process when public interest is involved or when the actions of the respondent are patently unfair or based on extraneous considerations.

6.10. Overall, if the respondent's action of disqualifying the petitioner, who is a relatively small-time player, while shortlisting public sector industries like IOCL, BPCL, and HPCL, as well as a major private player such as Reliance Industries, is considered, this Court does not perceive any vindictive attitude, malafide intent, or unfairness in the entire exercise.

F. The Result:

7. In light of this, finding no merits, this Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is also closed.

Neutral Citation : Yes
Jer

28.03.2025



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To
The Chief Engineer, Mechanical – Thermal Station
& Gas Turbine Schemes, Tamil Nadu Power
Generation Corporation Limited
3rd Floor, Wester Wing, 114 NPKRR Maaligai
Anna Saalai, Chennai – 02.



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D.BHARATHA CHAKRAVARTHY, J.

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28.03.2025