



WP.No.20813 of 2025

In the High Court of Judicature at Madras

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Reserved on : 11.7.2025	Delivered on : 17.7.2025
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Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Writ Petition No.20813 of 2025
& WMP.Nos.23476 to 23479 of 2025

Emerson Process Management
(India) Private Limited rep.by
its Regional Director Sales -
South Region Mr.Rama Krishna
Dupathi

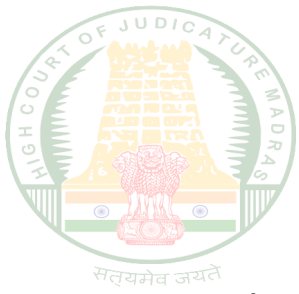
...Petitioner

Vs

1.Indian Oil Corporation Ltd.,
Marketing Division, Regional
Contract Cell, Southern
Regional Office, 8th Level,
Indian Oil Bhavan, No.139,
Uthamar Gandhi Salai,
Nungambakkam, Chennai-34.

2.The National Informatic Centre,
Tamil Nadu State Center, E Wing,
I Floor, Rajaji Bhavan, Besant
Nagar, Chennai-90.

(R2 suo motu impleaded vide
order dated 18.6.2025 by NAVJ)



WP.No.20813 of 2025

WEB COPY

(Previous R2 – Government
E-Market Place (GeM), II Floor,
Jeevan Tara Building, 5 Sansad
Marg, Near Patel Chowk, New Delhi-
110001 was deleted vide order
dated 18.6.2025 by NAVJ)

3.Advanced Sys-Tek Limited.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the notification dated 03.6.2025 recording the results of e-auction conducted on 30.5.2025 for Tender No.SRCC/BNR/PT/198/TAPSO/2024-25 and E-Tender ID: 2025_SROTN_183454_1, including communications, if any, declaring respondent No.3 as L1 bidder, quash/set aside the same and consequently direct respondent No.1 to re-conduct the e-reverse auction process for Tender No.SRCC/BNR/PT/198/TAPSO/2024-25 and E-Tender ID : 2025_SROTN_183454_1 in a fair and transparent manner amongst the petitioner and respondent No.3.

For Petitioner	: Mr.Yashod Vardhan, SC for Mr.P.Vinodkumar
For R1	: Mr.Mohammed Fayaz Ali Standing Counsel
For R2	: Ms.P.J.Anitha, Senior Panel Counsel
For R3	: Mr.Vivek Menon



WP.No.20813 of 2025

WEB COPY

ORDER

This writ petition has been filed challenging the Notification dated 03.6.2025 regarding the results of e-auction conducted on 30.5.2025 for the tender issued by the first respondent and for a consequential direction to the first respondent to re-conduct the e-reverse auction process in a fair and transparent manner between the petitioner and the third respondent.

2. Heard the respective learned counsel on either side.

3. The brief facts of the case and the stand taken by the petitioner were considered by this Court when an interim order was passed on 12.6.2025, which is extracted as hereunder in entirety :

"Mr.Mohammed Fayaz Ali, learned Standing Counsel, takes notice on behalf of the first respondent.

2. Notice to the respondents 2 and 3 returnable by 18.06.2025. Private notice is also permitted.

3. The first respondent floated a tender for design, supply, installation, testing and commissioning of DCS based Terminal Automation



WEB COPY



WP.No.20813 of 2025

System at Vizag Terminal. The tender involved reverse auction process to be conducted in electronic mode through a portal that is maintained by NIC. The petitioner was declared to be eligible to participate in the auction and he received an e-mail to that effect from the first respondent intimating that the auction will be held on 30.05.2025 between 10.30 a.m. and 12.30 p.m., which was extended till 2.00 p.m.

4. The petitioner and the third respondent participated in the auction on 30.05.2025. Several rounds of competitive bidding took place and at about 1.46 p.m., the third respondent had submitted his bid and immediately thereafter, at 1.47 p.m., there were some technical glitches and as a result, the portal and server time froze. Hence, the petitioner sent a e-mail to the first respondent informing that they are facing some issue. Immediately, at about 13.52 hours, the first respondent intimated the authority to look into the problem on priority. Unfortunately, the time that was extended came to an end at 2.00 p.m. Hence, it is contended that the petitioner, who had the right to participate in the auction was not in a position to submit his bid due to the technical error and in spite of reporting the same on time, no solution was arrived at. It is under these



WEB COPY



WP.No.20813 of 2025

circumstances, the present writ petition has been filed before this Court.

5. Learned Standing Counsel appearing on behalf of the first respondent submitted that the petitioner cannot be permitted to put the blame on the technical glitch faced while participating in the e-auction. To substantiate the same, learned Standing Counsel relied upon Clauses 20 and 21 of the instructions that were given to the bidders. Hence, it was submitted that neither NIC nor the first respondent can be held responsible for the hardship faced by the petitioner and the grounds raised by the petitioner is unsustainable and the present writ petition is liable to be dismissed.

6. In the considered view of this Court, the technical glitch had taken place immediately after the third respondent had submitted the bid at about 1.46 p.m. If the petitioner is not permitted to participate, for no fault of them, there will be virtually one bidder and there will be no competitor. Such a scenario will not augur well for a public sector undertaking, who must have at least two bidders participating in the tender process in order to get the most competitive bid. In any case, no prejudice will be caused to the first respondent if the bid of the petitioner is also considered along with the bid, which has already been submitted by the third respondent. In view of



WEB COPY



WP.No.20813 of 2025

the same, there shall be a direction to the first respondent not to finalise the auction till 18.06.2025.

Post this writ petition at the end of the motion list on 18.06.2025."

4. The first respondent filed a counter, the relevant portions of which are extracted as hereunder :

"7. I submit that in order to login to the e-portal, a bidder is required to enter into two levels of login. The bidder is first required to enter the login credentials and in the second level, the bidder is required to enter his digital signature by entering the user pin/DSC USB. The petitioner logged into the portal at 10.33 AM successfully, but logged out at 10.45 AM voluntarily. Thereafter, the petitioner once again logged in at 10.50 AM successfully and was logged in until 1.41 PM when the petitioner improperly logged out possibly on account of internet/system failure at the petitioner's end. Thereafter, the petitioner attempted to log in from 1.43 PM onwards, but was unable to clear the second level of log in, which is attributable to the petitioner alone and not on account of failure of the website whereas the third respondent logged in at 10.28 AM and remained logged in until 2.02 PM.



The log in/log out details of the petitioner and the third respondent is given below :

a. Emerson Process Management (India) Private Limited (Petitioner) login/logout details as below :

Log in time	Log out time	Log in level	Log out status
30-May-2025 10.33 AM	30-May-2025 10.45 AM	Second Level	Success
30-May-2025 10.50 AM	30-May-2025 01.41 PM	Second Level	Improper
30-May-2025 01.43 PM	30-May-2025 01.44 PM	First Level	Success
30-May-2025 01.46 PM	30-May-2025 01.48 PM	First Level	Improper
30-May-2025 01.50 PM	30-May-2025 01.55 PM	First Level	Improper
30-May-2025 01.56 PM	30-May-2025 01.57 PM	First Level	Success
30-May-2025 01.59 PM	30-May-2025 02.03 PM	First Level	Improper
30-May-2025 02.07 PM	30-May-2025 02.15 PM	First Level	Improper
30-May-2025 02.16 PM	30-May-2025 02.17 PM	First Level	Success
30-May-2025 02.20 PM	30-May-2025 03.04 PM	Second Level	Improper
30-May-2025 03.05 PM	30-May-2025 03.08 PM	Second Level	Success
30-May-2025 04.16 PM	30-May-2025 04.19 PM	Second Level	Success

b. Advance Sys Tek Ltd. (respondent No.3) login/ logout details as below :

Log in time	Log out time	Log in level	Log out status
30-May-2025 10.28 AM	30-May-2025 02.02 PM	Second Level	Success
30-May-2025 06.25 PM	30-May-2025 06.28 PM	Second Level	Success



WEB COPY



WP.No.20813 of 2025

8. *I submit that the e-auction concluded at 2.00 PM on 30.5.2025 and the third respondent was automatically declared as the L1 bidder. I submit that the petitioner sent an e-mail 30.5.2025 at 13.48 PM to the first respondent stating that they were facing some login issue with respect to digital signature. Upon receiving the said e-mail from the petitioner, the first respondent herein, at 1.52 PM, forwarded the petitioner's email to the e-tendering help desk. At this juncture, it is necessary to state that the petitioner ought to have approached the help desk for portal related issues as provided under Clause No.9 of the Special Instructions to the Bidder participating in the e-tender. As the petitioner alleged portal related issues, the first respondent, under email dated 30.5.2025, sought for clarification from the National Informatic Centre (NIC), the second respondent herein as well as from the e-tendering help desk as to whether the issue faced by the petitioner is pertaining to e-tender portal or is at bidder's end.*

9. *The e-tendering help desk issued a reply on 30.5.2025 providing 'hour wise report' of the tender portal wherein between 13.00 PM to 13.59 PM on 30.5.2025, there were 146 logins and 49 bids were uploaded pertaining to all the active tenders including the present tender concerning*



WEB COPY



WP.No.20813 of 2025

this writ petition. Likewise, a confirmation was also received from the NIC vide email dated 09.6.2025 confirming that there was no issue in the e-portal <http://iocltenders.nic.in/nicgep/app> on 30.5.2025 and also provided 'hour wise server health report' wherein several bidders were logged in and several number of bids were also uploaded between 13.00 PM to 13.59 PM on 30.5.2025. In view of the above report submitted by the NIC stating that there is no issue with the portal, the request for conducting re-e-auction was rejected by the respondents herein.

10. I submit that the petitioner failed to follow the protocol and instructions issued by the first respondent for participating in the e-tender and e-reverse auction. The petitioner was required to have the necessary paraphernalia and internet connectivity to ward off contingent situation such as internet connectivity failure, power failure, etc. The bidders were also required to have alternate necessary arrangements in order to circumvent any situation and still be able to participate in the live e-auction successfully. The bidders were also instructed not to wait till the last moment for submitting their bid to avoid any complex situations. The instructions to the bidders also made it clear that computer system failure or delay in performance or otherwise at bidders end shall



WEB COPY



WP.No.20813 of 2025

the sole responsibility of the bidder and neither NIC nor tender inviting authority shall be responsible.

11. In the present case, the petitioner logged out from the portal at 1.41 PM improperly and was thereafter facing issues which is attributable to the petitioner's system and not on account of failure of tender portal. In view of the report submitted by the NIC (which maintains a website) confirming that the portal had no issues, the present writ petition is devoid of merits and is liable to be dismissed."

5. The second respondent also filed a counter affidavit, the relevant portions of which are extracted as hereunder :

"28. The system is used by multiple departments across IOCL organization and the system was available without any technical glitch as various users successfully able to perform the second level login using DSC. The login details between 30-May-2025 13:30 Hrs to 30-May-2025 14:30 Hrs marked as Annexure -- R11 - LoginLog-1330 to 1430. This shows that the system was continuously available for the access and being accessed and users were able to perform the second level authentication. This indicates that there was no glitch in the system.



WEB COPY



WP.No.20813 of 2025

29. *That the hassle free bid submission guide available in the IOCL Portal which is marked as Annexure R3 Bid Submission Guidelines, clearly indicates that Non submission of bids due to any reasons within due date/time following due process prevalent at that time in the portal for which bidder shall be held solely responsible. Neither National Informatics Centre nor concerned Procuring Entity will be held responsible for the same in any manner.*

30. *That in addition to above, Bidders Manual for Tender Cum Auction namely 'Instructions to Bidders for Tender_Cum_Auction' available under Bidder Manual Kit which is marked as Annexure - R4 - Instructions_to_Bidders_for_Tender_Cum_Auction, also clearly specifies Non submission of bid/quote during live auction within due date/time following due process prevalent at that time in the portal due to failure of computer system, power, network, internet connectivity or delay in performance or otherwise at Bidder's end or any other reasons for which bidder shall be held solely responsible. Neither National Informatics Centre nor concerned Tender Inviting Authority will be held responsible for the same in any manner.*

31. *GePNIC system operations has a well defined process to handle System Malfunctions as given the System Malfunction Procedure marked as*



WEB COPY



WP.No.20813 of 2025

Annexure-R13-System Malfunction Procedure. If there would have been a system malfunction/non-availability, the tender/auction would have been extended to give fair chance to participating Bidders.

32. Para wise reply for the contention of the petitioner as stated in the reply affidavit filed on behalf of the petitioner dated 02 July 2025 :

a) Para 4 that "The Petitioner has produced screen shots taken at 1:46 PM and 1:57 PM which clearly show that the DSC login option was not available in the portal, after the first level log in." This is denied as the portal has allowed second level login which indicates that the DSC login option was available.

b) Para 7 that "I state that the power, system and internet connectivity was properly working without interruptions at the petitioner's end and the issue was solely attributable to respondent No. 1's portal. " It is denied that there was issue with the portal, as portal was functioning normally and users were accessing it as indicated in para 30(c).

c) Para 8 that "I reiterate that the portal was not properly functioning, and the petitioner was not able to login" was denied. The portal was functioning and users were accessing the application. This can be verified from Annexure



WEB COPY



WP.No.20813 of 2025

R12, which contains the details of successful second level login. In fact, there were 33 successful second level login between 13:40 Hrs and 14:00 Hrs on 30-05-2025. This clearly shows that there was no technical glitch in the system as averred by the Petitioner.

33. Users will be logged out from the system for security reasons, if they perform any of the actions such as copying and pasting the URL into a different browser session, clicking the "Back" button, pressing F5, or reloading the page. The second-level login will not be available if an incompatible browser is used.

34. That in view of the above, it is clearly evident that there is no technical glitch in the portal during the specified date/time. Petitioner could not continue their bidding in the Reverse Auction within due date/time following due process prevalent at that time in the portal for which the Petitioner shall be held solely responsible. Neither National Informatics Centre nor concerned Procuring Entity/Tender Inviting Authority can be held responsible for the same in any manner."

6. The third respondent filed a counter affidavit wherein they have taken the following stand :



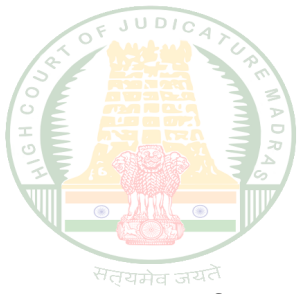
WP.No.20813 of 2025

WEB COPY

The alleged technical glitch raised by the petitioner cannot be a ground for interfering with the bid that has been given in favour of the third respondent since the e-tender was conducted in the online mode and the reason for the petitioner for not able to access the portal may be due to various reasons like hardware issues, software issues and internet connectivity issues. That apart, the second respondent made it very clear that there were no problems in the server side and the petitioner had not established that there was no problem on the user side. Therefore, the petitioner cannot be allowed to question the auction conducted by the first respondent, which resulted in the third respondent being declared as L1 bidder.

7. This Court has carefully considered the submissions of the learned counsel on either side and perused the materials available on record and more particularly the impugned Notification.

8. In the case in hand, the first respondent floated the tender for a works contract for design, supply, installation, testing and commissioning of DCS based terminal automation system at Vizag Terminal, Visakapatnam comprising of tank truck loading system, tank



WP.No.20813 of 2025

WEB COPY

farm management system, etc., along with associated works at Vizag Terminal. The bid submission start date was on 19.2.2025 and the end date was on 08.4.2025. The bid opening date was 09.4.2025 and the financial bid opening was scheduled on 26.5.2025.

9. The bid consisted of two bid system viz. technical and price bid. As per the tender document, the reverse auction procedure was followed wherein the lowest quote after the end of reverse auction should be considered for further processing. The Special Instructions were also given to the bidders for participating in the e-tender by providing help desk numbers and e-mail IDs in case of portal related issues. This is provided under Clauses 15, 20 and 21 of the Instructions to Bidders for Tender cum Auction.

10. In order to login to the e-portal, a bidder is required to enter into two levels of login. The first level is where the bidder is required to enter the login credentials and at the second level, the bidder is required to enter the digital signature. On 30.5.2025, the petitioner logged into the portal at 10.33 AM. The login and logout details of the petitioner have been explained in the counter filed by the first



WP.No.20813 of 2025

WEB COPY

respondent and the relevant documents have also been filed by the second respondent - the National Informatics Centre (NIC), which supports the online tender processing.

11. Everything was going on in a smooth manner till about 13.46 hours on 30.5.2025 and at about 13.47 hours, immediately after the third respondent submitted the last bid, there was a technical glitch in the portal. According to the petitioner, the portal and the server time froze and the bidding table disappeared from the portal. There was no internet connectivity at the user end and when the petitioner was attempting to refresh the portal to resume the auction, the refresh key in the portal did not work. At about the same time, the petitioner sent an email to the first respondent, which responded to the petitioner recommending access to the portal through internet explorer. The steps taken by the petitioner did not resolve the problem and the petitioner was able to login again only at about 14.22 hours. By that time, the auction was concluded.

12. The crux of the dispute is as to what happened between 13.46 hours and 14.00 hours.

16/23



WP.No.20813 of 2025

WEB COPY

13. The second respondent, which is a neutral agency, has taken a stand in the counter affidavit that there were 33 successful second level logins between 13.40 hours and 14 hours on 30.5.2025. The same has been substantiated by the documents filed by the second respondent along with the counter affidavit. It is, therefore, clear that there was no technical glitch on the server side.

14. Even the counter affidavit filed by the first respondent along with the relevant documents would show that on 30.5.2025, between 13.00 hours and 13.59 hours, 146 logins and 49 bids were uploaded pertaining to all active tenders that were taking part on that day including the present tender. An email dated 09.6.2025 was also received from the second respondent confirming that there was no issue in the e-portal on 30.5.2025 and the same is evident from hour-wise server health report, which forms part of the documents filed by the respondents.

15. On going through the same, it is seen that several members have logged in and several bids were uploaded between 13 hours and 13.59 hours on 30.5.2025.

17/23



WP.No.20813 of 2025

WEB COPY

16. Even as per the tender conditions, the petitioner is expected to follow the protocol and the instructions issued by the first respondent for participating in the e-tender and e-reverse auction. As per the system malfunction procedure for Government e-procurement, a particular procedure has been suggested whereas the petitioner has chosen to get in touch with the first respondent, which, in any case, could not have resolved the so-called problem faced by the petitioner.

17. There is overwhelming material available before this Court to show that there were no technical glitches on 30.5.2025 between 13 hours and 13.59 hours at the server end. In such an event, it is for the petitioner to explain as to why they faced such a glitch between 13.47 hours and 14.00 hours on 30.5.2025. As explained in the counter filed by the third respondent, there can be various reasons as to why the petitioner suffered the technical glitch on their side.

18. This Court must also take into consideration the fact that the petitioner has not alleged any mala fides against the respondents and that the petitioner is only questioning the procedure adopted by the first respondent. According to the petitioner, the first respondent could



WP.No.20813 of 2025

WEB COPY

have considered extending the time, which was very much within the power of the first respondent and instead, they had chosen to close the bid at 14 hours on 30.5.2025 and allott the tender in favour of the third respondent.

19. The learned Senior Counsel appearing on behalf of the petitioner placed reliance on the following :

*"(a) decision of the Rajasthan High Court in **JSW Cement Limited Vs. State of Rajasthan & Others [reported in 2019 (1) RLW 612];***

*(b) First Bench decision of the Delhi High Court in **Rockwin Flowmeter (India) Private Limited Vs. Government E-Marketplace (GeM) [W.P.(C) No.8928 of 2023 dated 14.8.2023];***
and

*(c) decision rendered by me in **Everest Instruments Pvt. Ltd. rep.by its Authorized Signatory Vs. Tamil Nadu Cooperative Milk Producers Federation Limited [reported in 2021 SCC OnLine Madras 5206]."***

20. In so far as the first judgment rendered by the Rajasthan High Court is concerned, it dealt with a similar server problem wherein the Court took into consideration the problem faced by the bidder and

19/23



WP.No.20813 of 2025

WEB COPY

came to their rescue. In so far as the third judgment rendered by me is concerned, that was a case where there was only one successful bidder and it was held that where there were only two participants, who had taken part in the tender, if one was disqualified, there would be no competition while opening the financial bid and whatever price was quoted by the only other bidder would be taken without a choice.

21. On the contrary, the learned Standing Counsel appearing for the first respondent relied upon the following :

*"(a) decision of the Hon'ble Apex Court in **Maharashtra Housing Development Authority Vs. Shapoorji Pallonji & Company Private Limited [reported in 2018 (3) SCC 13];***

*(b) First Bench decision of the Delhi High Court in **Jindal Steel & Power Limited Vs. Union of India [reported in 2023 SCC OnLine Delhi 4401]; and***

*(c) another First Bench decision of the Delhi High Court headed by the same Chief Justice in **Deep Blue Xpress Limited Vs. Municipal Corporation of Delhi [reported in 2023 SCC OnLine Delhi 5493]."***

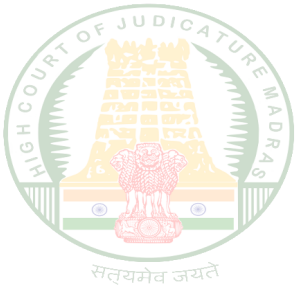


WP.No.20813 of 2025

WEB COPY

22. All the above judgments that were relied upon by the learned Standing Counsel appearing for the first respondent pertain to cases of technical glitches and the Hon'ble Apex Court and the Delhi High Court held that in the absence of any material to show that there was a glitch in the portal, the mere inability of the petitioner to upload the bid on the portal could not be a reason to set aside the auction process.

23. In the case in hand, the petitioner was not able to upload the bid on the portal for some reason between 13.47 hours and 14 hours on 30.5.2025. This cannot be attributed to the server since this Court found that the server was perfectly in order. Hence, some problem that was faced on the side of the petitioner cannot be a ground to set aside the auction process and direct the respondents to once again conduct the auction. We are living in a technology era and if Courts are to interfere with the auction process on the basis of the inability on the part of the participants to upload the bid without there being any problem on the server side, it will result in undermining the very e-tender process, which has become the order of the day. This Court does not find any merits in this writ petition.



WP.No.20813 of 2025

WEB COPY

24. Accordingly, the writ petition is dismissed. No costs.

Consequently, the connected WMPs are also dismissed.

17.7.2025

Index : Yes

Neutral Citation : Yes

To

1.Indian Oil Corporation Ltd.,
Marketing Division, Regional
Contract Cell, Southern
Regional Office, 8th Level,
Indian Oil Bhavan, No.139,
Uthamar Gandhi Salai,
Nungambakkam, Chennai-34.

2.The National Informatic Centre,
Tamil Nadu State Center, E Wing,
I Floor, Rajaji Bhavan, Besant
Nagar, Chennai-90

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WEB COPY



WP.No.20813 of 2025

N.ANAND VENKATESH,J

RS

WP.No.20813 of 2025
& WMP.Nos.23476 to
23479 of 2025

17.7.2025