

GAHC010057282024



**THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

Case No. : WP(C)/1581/2024

M/S KALAPAHAR INDANE GAS AGENCY
A PROPRIETORSHIP FIRM HAVING ITS REGISTERED OFFICE AT BINNOVA
NAGAR, FATASIL, GUWAHATI, KAMRUP (M), ASSAM- 781018
REPRESENTED BY ITS PROPRIETOR MR. BIPUL RAJKHOWA, AGED ABOUT
54 YEARS, SON OF SRI SONORAM RAJKHOWA

VERSUS

THE INDIAN OIL CORPORATION LIMITED AND 4 ORS
REPRESENTED BY MANAGING DIRECTOR, INDIAN OIL BHAVAN, G9, ALI
YAVAR JUNG MARG, BANDRA EAST, MUMBAI, MAHARASTRA- 400051

2:THE CHIEF GENERAL MANAGER
INDIAN OIL CORPORATION LIMITED
MARKETING DIVISION
REGIONAL CONTRACT CELL
EASTERN REGION OFFICE
2 GARIOHAT ROAD
SOUTH KOLKATA
WEST BENGAL- 700068

3:THE CHIEF GENERAL MANAGER
MARKETING DIVISION
NORTH EAST INTEGRATED STATE OFFICE
INDIAN OIL CORPORATION LIMITED
3RD FLOOR EAST POINT TOWER
BAMUNIMAIDAN
GUWAHATI- 781021

4:THE MANAGER (LPG-OPS)
IOAOODSO
INDIAN OIL CORPORATION LIMITED

INDIAN OIL AOD STATE OFFICE
SECTOR III
NOONMATI
GUWAHATI- 781020

5:THE TENDER EVALUATION COMMITTEE
INDIAN OIL CORPORATION LIMITED
INDIAN OIL AOD STATE OFFICE
SECTOR III
NOONMATI
GUWAHATI- 78102

Advocate for the Petitioner : MR. K N CHOUDHURY

Advocate for the Respondent : SC, I O C

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

26.04.2024

1. Heard Mr. K.N. Choudhury, learned Sr. Counsel for the petitioner assisted by Mr. R.J. Das. Also heard Mr. M.K. Choudhury, learned Sr. Counsel for the IOCL assisted by Mr. P. Baruah.

2. The petitioner's counsel submits that the petitioner has got one truck bearing registration No. AS 01 RC 1545. The petitioner participated in the NIT dated 24.11.2023. However, vide the tender summary report dated 27.02.2024, wherein the petitioner's name appears at Sl. No. 33, the petitioner's bid was rejected on the ground that the petitioner had not submitted PQC documents related to the offered truck. PQC is the short form for Pre Qualification Criteria and in terms of the PQC provided in the NIT dated 24.11.2023, the truck owner is to upload self attested copy of the RC Book/Smart Card or invoice accompanied with temporary registration certificate /temporary authorization of

registration certificate for the new truck.

3. Mr. K.N. Choudhury, learned Sr. Counsel for the petitioner submits that the petitioner having submitted the temporary authorization of registration certificate for the new truck bearing registration No. AS 01 RC 1545, the petitioner had fulfilled the requirement of the Pre Qualification Criteria required and as such, the rejection of his bid on the ground that he did not submit the temporary authorization of registration certificate for the new truck was without any basis. He accordingly submits that the rejection of the petitioner's bid should be set aside and the petitioner's bid should be considered along with other valid bidders, pursuant to the work to be provided in terms of the NIT dated 24.11.2023.

4. Mr. M.K. Choudhury, learned Sr. Counsel for the IOCL, on other hand, submits that the truck owner has to submit an invoice along with the temporary authorization of registration certificate for new trucks. As the petitioner did not submit any invoice along with his temporary authorization of registration certificate, there was no infirmity in the respondents rejecting the petitioner's bid, as the same was not in accordance with the Pre Qualification Criteria required in the NIT dated 24.11.2023.

5. I have heard the learned counsels for the parties.

6. The Pre Qualification Criteria for bidders offering trucks provides as follows-

“I. Bidders offering ready trucks:

Bidders must submit following documents as minimum pre-qualifying

criteria for this tender. All such documents must be valid as on the closing date of tender:

Sr. No.	Criteria	PQC Document to be uploaded
i.	Truck ownership: Owned /Attached trucks	For owned/ Attached trucks: Self attested copy of Form 23/23A (RC Book/Smart Card) or "Invoice accompanied with temporary registration certificates temporary authorization of registration certificate for new trucks". In addition, for attached trucks, affidavit as per pro-forma is mandatory.
ii	Age of offered trucks	Age of the quoted truck shall not exceed the limit as specified in 'NIT' (Notice Inviting Tender) as on the closing date of tender submission from the month & year of manufacturing as mentioned In RC book/ Temporary RC Temporary authorization of RC (in case of new truck). If last date of bid-submission is extended after publication of tender, vehicles having date of registration up to last date of bid submission (as per original tender document) shall only be eligible for participation.”

7. A perusal of Sl. No. 1 of the above chart shows that for owned/attached truck, the bidder would have to submit self attested copies of the Registration Book or the Smart Card. If the same was not possible, the bidder was to submit an invoice accompanied with temporary authorization of registration certificate for a new truck. A 3rd alternative has been enumerated, wherein it has been stated that temporary authorization of registration certificate for new trucks

should be uploaded. It is clear from the chart shown above that the bids of truck owners would have to have documents as per the 3 alternatives mentioned therein. The 3rd category of documents required of a bidder clearly provides that only a temporary authorization of registration certificate for a new truck can also be considered, even in the absence of an invoice. The document submitted by the petitioner with regard to his new truck, which is reflected in Page 123 of the affidavit-in-opposition filed by the IOCL, shows that the temporary authorization of registration certificate for the truck bearing registration No. AS 01 RC 1545, which was registered on 03.11.2023 was submitted. As the NIT was published on 24.11.2023, it is clear that the petitioner's truck was only 21 days old at the time of the issuance of the NIT. The temporary authorization of registration certificate for the new truck having clearly been submitted by the petitioner, this Court is of the view that the rejection of the petitioner's bid by the respondent authorities was not in consonance with the Pre Qualification Criteria provided in the NIT. In that view of the matter, the rejection of the petitioner's bid in Sl. No. 33 of the tender summary report dated 27.02.04 is not sustainable and the same is accordingly set aside. The respondents are accordingly directed to consider the case of the petitioner for allotment of transportation of Indane LPG cylinders in terms of the NIT dated 24.11.2023.

8. The writ petition is accordingly allowed and disposed of.

JUDGE

Comparing Assistant