

(2021) 05 GAU CK 0011
In the Gauhati High Court
Case No : Writ Petition (C) No. 2972 Of 2021

Bandana Phukan And 7 Ors	Vs	APPELLANT
Oil India Ltd. And 2 Ors		RESPONDENT

Date of Decision : 28-05-2021

Acts Referred:

Citation : (2021) 05 GAU CK 0011

Hon'ble Judges : N. Kotiswar Singh, J

Bench : Single Bench

Advocate : M Smith

Final Decision : Disposed Off

Judgement

1. The Court proceedings have been conducted through video-conference.
2. Heard Mr. A. K. Baruah, learned counsel for the petitioners. Also heard Mr. S.N. Sarma, learned Senior Standing Counsel, OIL assisted by Ms. Gayatri, learned counsel.
3. Considering the nature of the case and on hearing the parties and perusal of the pleadings, this Court is of the view that the present petition can be disposed of at this stage without issuing notice to all the respondents.
4. The grievance of the petitioners relates to certain malpractices allegedly practiced by some of the bidders relating to E-Tender dated 20.03.2020 for Hiring of Services of 12 KL capacity bowsers (tankers) for transportation of crude oil/condensate from various OIL's Field Locations in Assam fields for a period of 3 (three) years with a provision of extension by another 01 (one) year.
5. According to the petitioners, they had duly participated in the said bid and on opening of the bids, the bid of respondent No.3 was found to be

defective in as much as he had produced a forged document relating to the vehicle which was to be used in the transportation.

6. It is the case of the petitioners that the petitioners found out that the Page No.# 4/6 respondent No.3 had relied on a Registration Certificate of the vehicle, bearing Registration No. NL01AC1962, which was apparently registered on 27.08.2018, which however, was found to be incorrect in as much as the seller of the vehicle French Motor Car Co. Limited had issued the Sale Certificate in which it is mentioned that the said vehicle was sold on 29.04.2019 and as such, the registration of the vehicle before it was sold is impossible. It has been submitted that it clearly indicates certain manipulation by the respondent No.3 as regards the aforesaid Registration Certificate of the vehicle.

7. Learned counsel for the petitioners submits that it has been clearly mentioned in Clause No.34 of the E-Tender that furnishing of fraudulent information or document would make the bid of a bidder liable to be rejected or cancelled. Accordingly, the petitioners submitted a detail representation to the authorities on 04.05.2021 questioning the acceptance of the tender documents submitted by the respondent No.3 and for cancelling the same. However, the authorities have not taken any action in that regard. Accordingly, being aggrieved, the petitioners have approached this Court.

8. Mr. S. N. Sarma, learned senior Standing Counsel, OIL, however, has submitted that it is not correct that the authorities kept silent on the matter. In fact, after being drawn attention to the alleged discrepancies in the documentation, the authorities had initiated the process of verification and the authorities constituted a Committee which verified and examined the documents submitted by all the tenderers and after examining the same, the Committee made certain recommendations to the approving authority, which read as follows:

In view of above and considering urgent requirement of the services, it is proposed to award contracts with OIL's offered rates and at Page No.# 5/6 a total estimated contract cost of rs.4,20,72,543.75 per group of bowser (detailed cost break-up annexed as Annexure-VII) as per the following:

i. To award contract for 19 Nos. of Contracts for 20 Groups of readily available bowsers as listed in Annexure-VIII.

[Contract will not be awarded to M/s Mahender Singh, Vendor Code: 412386 and M/s Sanjay Kr Garg, Vendor Code : 408676, as detailed

verifications are to be done based on the complaint received against few of their offered bowzers].

ii. To hire 04 (Four) bowzers out of the 05 (five) bowzers from each of the group selected against priority nos. 22 nd and 23rd for transportation of

Low Wax crude/Condensate.

iii. To award contract for remaining groups of readily available bowzers and 02 groups of brand new bowzers at a later date in order of Priority Nos.

as listed in Annexure-IX, depending upon the future requirement and with the consent of LMC.

iv. To verify the documents of M/s Mahender Singh and M/s Sanjay Kr Garg prior to award of contract.

v. Not to consider the offer of M/s Shiva Construction for award of contract within the suspension period.

vi. To keep the 04 (Four) bidders for readily available bowser, excluding M/s Shiva Construction and 02 (Two) bidders for brand new bowser as listed

in Annexure-X in 'waiting list' with validity upto 31.05.2021 for awarding of contract in order of priority nos., in case the selected bidder(s) do not fulfil

the requirements.

9. It has been submitted that as far as the respondent No.3 is concerned, the concerned Committee had recommended not to award the contract in

issue to him without being satisfied of the original documents/certificates and accordingly, it has been submitted that necessary consequential actions

will be taken on the basis of the recommendation made by the Committee and as such, nothing survives for further consideration by this Court in this

matter.

10. Having heard the learned counsel for the parties and also on perusal of the records, this Court is of the view that the grievances raised by the

petitioners not to act upon the bid submitted by the respondent No.3 has been already taken care of by the authorities in the manner described above

and as such, this Court is of the view that this petition has become virtually infructuous.

However, this Court expects that necessary consequential actions will be taken by the authorities keeping in mind the relevant rules in that regard for

awarding the contract to the deserving bidder(s) in accordance with law as expeditiously as possible as the petitioners who are claiming to be qualified have a legitimate expectation that the tender process would be taken to its logical conclusion by awarding the same to the most deserving valid bidder(s).

11. With the above observation and direction, the present petition stands disposed of.

However, liberty is granted to the petitioners to approach this Court again if any cause of action arises in future.