
(2010) 12 UK CK 0019

In the Uttarakhand High Court

Case No : Writ Petition No. 2031 of 2010 (M/S)

Daksh Enterprise Ltd.

APPELLANT

Vs

Indian Oil Corporation

RESPONDENT

Date of Decision : 23-12-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 20
Constitution of India, 1950 — Article 226

Citation : (2010) 12 UK CK 0019

Hon'ble Judges : Brahma Singh Verma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

B.S. Verma, J.—Heard Mrs. Vijay Lakshmi Advocate for the Petitioner and Mr. V.K. Kohli, Senior Advocate appearing on behalf of the Respondent.

2. By means of this petition the Petitioner has sought the following relief-

(1) To issue a writ, order or direction in the nature of certiorari quashing the impugned decision/letter dated 08-11-2010 (Annexure No. 6) passed by Respondent.

(2) To issue a writ, order or direction in the nature of mandamus directing the Respondent to allow the Petitioner to participate in tender released by the corporation/Respondent and consider a party in those tenders in which he has participated.

3. By the impugned order the Petitioner was put on holiday list and debarred from entering into any contract with Indian Oil Corporation Ltd. for a period of two years effective from the date 8.11.2010.

4. Briefly stated the facts of the case are that a show cause notice was issued on 10-08-2010 to the Petitioner, whereby the Petitioner was asked to show cause in writing regarding backing out/withdrawn by Petitioner after opening of price bid

of tender No. UPSO II/LPG/PT/HLG/LON/2010 for handling cartage, cleaning and miscellaneous works at LPG Bottling Plant, Loni where the Petitioner became lowest tenderer, i.e. L-1 party. In response thereto the reply/explanation was given by Petitioner on 16-8-2010 wherein the reason of denial to perform the jobs as per the rate schedule of tender on the quoted rates due to hike in minimum wages, was given. After considering the reply, the Indian Oil Corporation rejected the explanation on the ground that due date of opening of the tender was 04-06-2010 whereas the hike in minimum wages was w.e.f. April 2010 and the reply was not satisfactory and the Petitioner was put on holiday list as narrated above.

5. The learned Counsel appearing on behalf of Respondent has raised preliminary objection regarding territorial jurisdiction of this Court on the ground that as the cause of action has arisen in State of U.P. and the impugned order has been passed by D.G.M. (LPG), UPS02 in charge of District Ghaziabad, U.P., therefore, this Court has got no territorial jurisdiction to hear this petition.

6. On the other hand learned Counsel for the Petitioner has submitted that the office of the Petitioner company is at Haridwar, hence this Court has got jurisdiction.

7. The submission of learned Counsel for Petitioner has no substance. Section 20 of CPC deals with territorial jurisdiction of courts and it provides that suits are to be instituted where Defendant resides or cause of action arises. The provision of Section 20 CPC are also applicable to the petition filed under Article 226 of the Constitution of India.

8. Therefore, in view of the fact that the cause of action in the instant case has arisen in State of U.P. and the Respondent is established in State of U.P., therefore, this Court has got no jurisdiction to entertain this writ petition.

9. The writ petition is dismissed. However, the Petitioner may assail the order impugned before the competent court of jurisdiction and the Petitioner shall also be at liberty to make a representation before review committee as has been proved in Holiday List Rules.