
(2002) 12 AHC CK 0083
In the Allahabad High Court
Case No : Writ Petition No. 30903 of 2002

M/s. Rajendra Road Lines

APPELLANT

Vs

Indian Oil Corpn and another

RESPONDENT

Date of Decision : 02-12-2002

Acts Referred:

Citation : (2002) 12 AHC CK 0083

Hon'ble Judges : M.KATJU, J and RAKESH TIWARI, J

Final Decision : Dismissed

Judgement

N. KATJU, J.

1. The petitioner is a registered partnership from which deals in transportation, having trucks for transportation of goods. An advertisement was published in the Hindi newspaper Dainik Jagran Allahabad dated 722002 inviting tenders for carrying LPG cylinders from one place to another. The date for depositing tender forms and 2522002 at 1430 hours and the time for opening the tenders was 2522002 at 14.35 hours. True copy of the tender notice is Annexure 1 to the writ petition. In pursuance of the advertisement the petitioner submitted its tender and deposited a draft of Rs. 30,000/, copy of which is Annexure 1A. The tender was opened and a letter was issued by the respondent No. 2 dated 2632002 wherein certain shortcomings were pointed out and the petitioner was required to submit the same before 542002 so that the tender of the petitioner could also be considered. True copy of the letter dated 2632002 is Annexure2. The petitioner complied with this requirement. Thereafter on 952002 another letter was issued from the office of respondent No. 2 asking the petitioner to be present at the Lucknow office on 1752002 at 3.00 p.m. as price bids were to be opened on the said date. Another letter was then issued on 2952002 requiring the petitioner to be present at the Lucknow office on 462002, true copy of which is annexure4. The another letter was issued dated 662002 by the respondent No. 2 requiring the petitioner to be present at Lucknow Office on 1262002. It is stated in paragraph 10 of the petitioner that the petitioner was present in the

Lucknow office on all the above dates and was assured by the respondent No. 2 that the petitioner would also be given a contract along with others for transportation of LPG cylinders from Allahabad to various places. The schedule of rates is mentioned in paragraph 11.

2. In paragraph 13 of the petition it is stated that the tender has been finalized and tenders have been offered to various companies vide Annexure6 but not to the petitioner. The petitioner has stated that he enquired why his tender was not accepted and he was informed that the petitioner had not given correct information as required in declaration B, copy of which is Annexure7. The petitioner has alleged that declaration B is not applicable. In paragraph 16 general guidelines issued from the Indian Oil Corporation have been quoted which are as under :

"6. Near relatives of an employee responsible for award and execution of this contract in the Corporation are Not Permitted to quote. Tenderers shall be obliged to intimate the Corporation the names of persons

who are near relatives of any employee of Corporation or in State or Central Government and who are working with the tenderer in their employment or are subsequently employed by then. A retired employee of the Corporation cannot bid within 2 years of his retirement without obtaining written permission from GM (HR)HO. A copy of such permission should be attached with the tender. Any violation of this condition, even if detected subsequent to the award of contract, would amount to breach of contract on tenderers part entitling the Corporation to all rights and remedies available thereof."

3. It is alleged in paragraph 18 of the petition that none of the partners of the petitioner firm have their relatives working or are employees of the Corporation. It is only Rajendra Kumar, a partner in the petitioner firm, whose father Ram Bahadur, is working as an Officer in the Indian Oil Corporation and is posted at Varanasi bottling plant. It is alleged in paragraph 20 that Ram Bahadur father of Rajendra Kumar is not working in the petitioner company nor is he associated with it. Petitioner submitted applications on various dates vide Annexure8, but to no avail. It is alleged in paragraph 20 that the action of the respondents is violative of Article 14 of the Constitution.

4. A counteraffidavit has been filed by the India, Oil Corporation. In paragraph 4 it is stated that the petitioner has submitted that form B declaration but wholly illegally and incorrectly, he has stated in the same that the same was not applicable. This was a misstatement since Rajendra Kumar, a partner in the firm, is son of Ram Bahadur Yadav, who is an Officer in the Indian Oil Corporation presently posted at Varanasi bottling plant. In paragraph 5 it is stated that clause 6 of the Tender Rules is very salutary in nature and the aim of the said clause is to prevent the Corporation from giving any undue advantage to any tenderer who might have a close relative employed in the Corporation as that is in the interest of fair play and reasonableness.

5. In our opinion there is no force in this writ petition. There is no dispute that the father of one of the partners of the petitioner firm Rajendra Kumar is son of one Ram Bahadur Yadav who is an Officer in the Indian Oil Corporation. Hence, in view of clause 6 of the Tender Rules the tenderer shall have disclosed this fact, but it was not disclosed.

6. It may be mentioned that the petitioner is a partner in the partnership firm and it is well settled that a firm is not a legal entity but is only a compendium of the partners. Hence, clause 6 will, in our opinion, apply where the near relative of any of the partners is employed by the Corporation. The petitioner did not inform in its tender that Ram Bahadur Yadav is father of one of the partners. Hence, in our opinion, the tender of the petitioner was rightly rejected.

7. There is no force in this petition and it is dismissed.

Petition dismissed.