
(2002) 12 AHC CK 0049
In the Allahabad High Court
Case No : C.M.W.P. No. 30903 of 2002

Rajendra Road Lines

APPELLANT

Vs

Indian Oil Corporation and Another

RESPONDENT

Date of Decision : 02-12-2002

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : AIR 2003 All 77 : (2003) 1 AWC 11

Hon'ble Judges : Rakesh Tiwari, J;M. Katju, J

Bench : Division Bench

Advocate : R.B. Singhal, for the Appellant; R.G. Padia, Prakash Padia and Anand Tewari, for the Respondent

Final Decision : Dismissed

Judgement

M. Katju, J.—The petitioner is a registered partnership firm which deals in transportation, having trucks for transportation of goods. An advertisement was published in the Hindi newspaper "Dainik Jagran" Allahabad dated 7.2.2002 inviting tenders for carrying LPG cylinders from one place to another. The date for depositing tender forms was 25.2.2002 at 14.30 hours and the time for opening the tenders was 25.2.2002 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 26.3.2002 wherein certain short-comings were pointed out and the petitioner was required to submit the same before 5.4.2002 so that the tender of the petitioner could also be considered. True copy of the letter dated 26.3.2002 is Annexure-2. The petitioner complied with this requirement. Thereafter on 9.5.2002 another letter was issued from the office of respondent No. 2 asking the petitioner to be present at the Lucknow office on 17.5.2002 at 3.00 p.m. as price bids were to be opened on the said date. Another letter was then issued on 29.5.2002 requiring the petitioner to be present at the Lucknow

office on 4.6.2002, true copy of which is Annexure-4. Then another letter was issued dated 6.6.2002 by the respondent No. 2 requiring the petitioner to be present at Lucknow office on 12.6.2002. It is stated in paragraph 10 of the petition 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 finalised and tenders have been offered to various companies vide Annexure-6 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 Annexure-7. 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 the Corporation or in State or Central Government and who are working with the tenderer in their employment or are subsequently employed by them. 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 tenderer's 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 Annexure-8, 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 counter-affidavit has been filed by the Indian Oil Corporation. In paragraph 4, it is stated that the petitioner had submitted the Form B declaration but wholly illegally and incorrectly, he has stated in the same that the same was not applicable. This was a mis-statement 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 who is son of one Ram Bahadur Yadav is an Officer in the Indian Oil Corporation. Hence, in view of Clause 6 of the Tender Rules the tenderer should 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.