Ashwini

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ASHWINI PRASAD NARHIRE
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WRIT PETITION (L) NO.37019 OF 2026

1. **Alpine Ethanol Private Limited**)
A company incorporated under the)
Companies Act, 2013, bearing CIN)
U23200KA2022PTC169719, having its)
registered office at No. 17/3, Harris)
Road, Benson Town, Bengaluru - 560 046,)
Karnataka, through its Managing Director,)
Mr. Syed Abdul Kabeer)

2. **Mr. Syed Ahmed Zahir**)
Being a director and shareholder of)
the Petitioner Company Having his)
registered office address at 17/3,)
Harris Road, Benson Town, Bengaluru,)
Karnataka - 560 046) ...**PETITIONER**

VERSUS

1. **Bharat Petroleum Corporation Limited**)
A Government of India Enterprise,)
having its registered office at Bharat)
Bhavan, 4 & 6 Currimbhoy Road,)
Ballard Estate, Mumbai - 400 038,)
and its Central Procurement Organisation)
(Marketing) at 'A' Installation, Sewree Fort)
Road, Sewree (East), Mumbai - 400 015)

2. **Indian Oil Corporation Limited**)
A Government of India Enterprise,)
having its registered office at Indian)
Oil Bhavan, G-9, Ali Yavar Jung Marg,)
Bandra (East), Mumbai - 400 051)

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3. **Hindustan Petroleum Corporation Limited**)
A Government of India Enterprise,)
having its registered office at Petroleum)
House, 17, Jamshedji Tata Road,)
Churchgate, Mumbai - 400 020)

4. **Mangalore Refinery and Petrochemicals Limited**)
A Government of India Enterprise,)
having its Registered office at Kuthethoor)
P.O., Via Katipalla, Mangaluru - 575 030,)
Karnataka)

5. **Numaligarh Refinery Limited**)
A Government of India Enterprise,)
having its registered office at 122A,)
G. S. Road, Christianbasti,)
Guwahati – 781 005, Assam)

6. **Union of India**)
Through the Secretary, Minstry of)
Petroleum and Natural Gas,)
Shastri Bhawan,)
New Delhi – 110 001)...**RESPONDENTS**

....

Mr. Janak Dwarkadas, Senior Advocate with Mr. Shadab Jan, Ms. Suchitra Valjee, Mr. Arjun Bhal and Ms. Neelakshi Pal i/b Manilal Kher Ambalal & Co., for the Petitioner.

Mr. Navroz Seervai, Senior Advocate, with Mr. Mustafa Doctor, Senior Advocate (through VC), Mr. Abeezar Faizullabhoy, Mr. Murtaza Kachwalla, Mr. Nikhilesh Koundinya, Mr. Abhinav Naiknaware and Mr. Shaumil Deb, i/b Indus Law, for the Respondent Nos.1 to 3.

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CORAM : MAHESH CHANDRA TRIPATHI, CJ. &
ADVAIT M. SETHNA, J.

RESERVED ON : 29th OCTOBER, 2026.

PRONOUNCED ON : 3rd NOVEMBER, 2026.

JUDGMENT (Per Advait M. Sethna, J.) :-

1. Rule. Rule made returnable forthwith with the consent of parties.

2. The instant Writ Petition is preferred under Article 226 of the Constitution of India for the following substantive reliefs:

> *"(a) issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction, directing Respondent No.1 to forthwith enable the Petitioner Company to view, download and respond to the said Tender on the said Portal, and to permit the Petitioner Company to submit its quantity bid through the said Portal on or before the due date, or if the due date has elapsed, within such time as this Hon'ble Court may fix;*
>
> *(b) issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction, directing Respondent Nos.1 to 5 to consider the Petitioner Company's bid on merits, along with bids of all other bidders, strictly in accordance with the terms of the said Tender."*

3. The Petitioners are primarily aggrieved by their non-participation in a large-scale Tender floated by Respondent No. 1 - Bharat Petroleum Corporation Limited (***"BPCL"*** for short),

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concerning procurement of approximately 1,100 crore litres of Denatured Anhydrous Ethanol for the Year 2026–2027.

I. Factual Matrix:

4. The facts necessary for adjudication of this Petition are noted below:

5. The Petitioner No. 1 is a company engaged in establishing and operating a grain-based distillery for the manufacture and supply of Ethanol. It claims to have established a 200 KLPD distillery in the State of Karnataka for the production of fuel Ethanol.

6. On 13th January 2025, an Expression of Interest bearing No. 2025_01 (***"EOI"*** for short) was published inviting applications from prospective vendors for enrollment for the supply of Denatured Anhydrous Ethanol (***"said Ethanol"*** for short) to Oil Marketing Companies (***"OMCs"*** for short) for the period ending on 31st October 2027.

7. On 16th October 2026, the Respondent No. 1 issued a Quantity Bid Tender bearing ID No. 26985 and Reference No. 1000466894 (C-1) (***"Subject Tender"*** for short), for the procurement of approximately 1,100 crore litres of said Ethanol for the Ethanol Supply Year 2026–2027.

8. The EOI was published on 13th January 2025. Thereafter, the

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Tender was floated on 16th October 2026. During this period, the Petitioners have not made any application or initiated the process in terms of enrollment as a registered vendor with the Integrated Ethanol Management System (***"IEMS"*** for short) for supply of the said Ethanol to the OMCs, as stipulated in the EOI. Moreover, the Tender document categorically defines the expression "Vendor/Registered Vendor" to include any legal entity registered with the OMCs for the supply of Ethanol.

9. On 22nd October 2026, the Petitioners received an email from C1 India Software Support team, which manages the E-Procurement portal on behalf of Respondent No.1, stating that the Petitioner's request for registration in BPCL E-tendering portal has been accepted and providing the details of further process.

10. Thereafter, the Petitioners sent repeated emails to the concerned officials of the Respondent No.1 *inter alia* stating that the subject Tender was not visible to them. Subsequently, on 23rd and 24th October 2026, the Petitioners attempted to access and download the Tender document but were unable to do so.

11. In such backdrop, the Petitioners instituted the present Writ Petition on 25th October 2026. The grievance of the Petitioners stems from their inability to access the subject Tender. In view thereof, directions are sought from this Court, permitting the

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Petitioners to access the subject Tender and to participate in the bidding process.

II. Rival Contentions:

A. Submissions on behalf of the Petitioners:

12. The case of the Petitioners as canvased by Mr. Janak Dwarkadas, learned Senior Counsel for the Petitioners in essence would be thus:

13. Mr. Dwarkadas has strenuously urged that the prerequisite/precondition of the bidder being registered with the IEMS as a registered vendor is nowhere stipulated much less stated in the Tender document. In view thereof, the subject Tender becomes susceptible/vulnerable on the ground that its terms and conditions are vague and/or uncertain. Consequently, it is virtually impossible for anyone to comprehend what is expected from it as a prospective bidder. On this ground alone, the subject Tender floated by the Respondents is bad in law & therefore, illegal.

14. Mr. Dwarkadas would contend that there is nothing in the Tender document nor in the Bidder Manual to indicate that this is a limited Tender restricted to pre-registered Ethanol vendors on the IEMS portal. He would thus urge that the Respondents cannot be allowed to introduce such a restriction subsequently, after the

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Tender has been issued.

15. According to Mr. Dwarkadas, Annexure XI of the Tender document which refers to *"General Instructions to vendors for e-tendering"*, permits the Petitioners to proceed with the registration on the e-tender site in a particular manner as contemplated therein. Accordingly, the Petitioners followed all the steps as set out in the said Annexure. In this regard, he would place due reliance an email dated 22nd October 2026 (page 226 of the Petition). This, to urge that the Petitioner's request for registration on the BPCL E-tendering portal has been already accepted and therefore, the Petitioner-Company is duly registered. However, despite the same, the Petitioners were disqualified from the subject Tender without any fault being attributed to them.

16. Mr. Dwarkadas would contend that despite repeated emails and a telephonic request addressed to the contact person identified in the Tender document, no clarification or response was received from the Respondents. He would submit that the subject Tender continued to remain inaccessible to the Petitioners, without any reason for such exclusion being communicated to them. Thus, even on such count, the disqualification of the Petitioners is completely arbitrary and illegal.

17. Mr. Dwarkadas would then refer to Annexure-VII of the Tender

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document which deals with *"Integrated Ethanol Management System (IEMS) – Vendor Activities and Obligations"*, which is relied upon by the Respondents through their Affidavit-In-Reply dated 28th October 2026. His primary contention in this regard is that the said Annexure uses the expression "registered supplier" and not a "registered bidder". According to him, these are 2 different/distinct categories in respect of which there is no overlap in the Tender document. In view thereof, the training sessions would be in *stricto sensu* applicable to the registered suppliers at the IEMS and not to registered bidders. Thus, according to Mr. Dwarkadas, based on the bare reading of the Annexure VII, no person will ever interpret it to infer that registration with IEMS for the purpose of supply of the said Ethanol to OMCs is a mandatory requirement for participation as a bidder in the subject Tender.

18. Mr. Dwarkadas has further submitted that the EOI on which much reliance is placed by the Respondents is nowhere referred to Tender document. Accordingly, even if the said EOI has set out certain pre-requisites and/or requirements, the same would not be applicable, in the given case in the absence of it being translated into the actual Tender document.

19. Mr. Dwarkadas in support of his submissions has placed due reliance on the decision of the Supreme Court in ***Reliance Energy.***

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Ltd. And Anr. Vs. Maharashtra State Road Development Corporation Ltd.[1] This, to submit that terms and conditions of a Tender must indicate the norms and benchmarks with legal certainty. If there is vagueness or subjectivity in the said norms, it may result in unequal and discriminatory treatment, thereby violating the doctrine of "level playing field". Moreover, the Supreme Court has held that "opportunity" is also a part of right to life under Article 21 of the Constitution of India. This is being arbitrarily denied to the Petitioners, which calls for intervention by this Court.

20. Mr. Dwarkadas would also rely on the decision of the Supreme Court in ***Maha Mineral Mining & Benefication Pvt. Ltd. Vs. Madhya Pradesh Power Generating Co. Ltd.***[2] to submit that prior qualification requirements must be spelt out clearly in the Tender document, in the absence of which, non-compliance with same cannot be made a ground for disqualification of such bidder.

21. Mr. Dwarkadas would submit that the Petitioners have invested approximately Rs. 250 crore in establishing a plant for ethanol production and have obtained the requisite licences and certifications. Therefore, at this stage, their exclusion from participating in the subject Tender would cause substantial prejudice to the company and its employees.

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1 (2007) 8 SCC 1

2 2025 SCC OnLine 1942.

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22. In light of the above, he would urge that the Petition be allowed and Rule be made absolute.

B. Submissions on behalf of the Respondents:

23. Mr. Navroz Seervai along with Mr. Mustafa Doctor, learned senior counsel for the Respondents have vehemently opposed the instant Petition. They have sought to place due reliance on the Affidavit-in-Reply dated 28th October 2026 filed on behalf of the Respondent No.1-BPCL during the course of arguments.

24. The principal objection raised by Mr. Seervai is that the participation in the subject Tender was confined to vendors who had already been registered and approved by the OMCs for the supply of Ethanol. The eligible vendors were identified from the vendor master maintained on the IEMS, a software platform developed by the OMCs for managing the procurement and logistics of Ethanol.

25. Mr. Seervai would contend that the Petitioners have conflated the registration on the general e-tendering portal with registration as an approved ethanol vendor on IEMS. According to him, the former is merely a preliminary step enabling an applicant only to initiate the registration process, whereas the latter requires a separate application, scrutiny of the prescribed documents and

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approval by the OMCs.

26. In support of the above submission, Mr. Seervai would also place reliance on another Affidavit dated 29th October 2026 filed on behalf of the Respondent No. 1, wherein it has been categorically stated that the subject Tender will only be open to 519 entities which are registered under the IMES portal as vendors for supply of denatured anhydrous ethanol to OMCs, prior to floating of the subject Tender. Therefore, according to him, since the Petitioner-Company is admittedly not registered through IEMS, it is not entitled to participate in the subject Tender.

27. Mr. Seervai would submit that the email dated 22nd October 2026 relied upon by the Petitioners merely confirms registration on the general e-tendering portal and does not establish that the Petitioner-Comany had been registered and approved as an ethanol vendor before the said Tender was issued on 16th October 2026.

28. Mr. Seervai would then submit that the procedure for obtaining registration on IEMS is set out in Annexure VII along with Annexure VIII of the Tender document. According to him, an applicant acquires the status of a registered Ethanol vendor only upon completion of the prescribed process and approval by the OMCs. In this regard, he would also refer to the expression “Registered Vendor” as defined in the Tender document to mean a

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legal entity registered with the OMCs for the supply of said Ethanol.

29. Mr. Seervai would place reliance on EOI published on 13th January 2025, inviting applications from prospective vendors for enrolment for the supply of said Ethanol to OMC locations for the period ending on 31st October 2027. He would contend that the enrolment process through such EOI ordinarily remained open throughout the year, except during the period when the bidding window for a quantity bid Tender was open. In view thereof, since the Petitioners had not obtained registration and approval as an ethanol vendor on IEMS before the issuance of the subject Tender, it did not form part of the vendor master from which eligible bidders were identified by the Respondents.

30. Mr. Seervai would contend that the submission advanced on behalf of the Petitioners that the said EOI *(supra)* finds no reference in the Tender document is factually incorrect. In this regard, he would place reliance on clause 'B' of Annexure VIII of the Tender document, which specifically stipulates that the terms and conditions of the said EOI *(supra)* will be applicable for the subject Tender.

31. Mr. Seervai would urge that the Petitioner's registration on the general e-tendering portal on 22nd October 2026 also occurred much after the issuance of the subject Tender on 16th October

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2026. Therefore, such subsequent registration cannot retrospectively confer eligibility to participate in a limited Tender, without being registered as an Ethanol Vendor on the IEMS portal.

32. Mr. Seervai would urge that the authority that issued/floated the Tender is best placed to understand and interpret its conditions. In view thereof, the writ court should refrain itself from imposing its decision over the decision of the employer, as to whether or not to accept the bid of tenderer. In support of these submissions, Mr. Seervai has relied upon the decision of the Supreme Court in ***N.G. Projects Ltd. Vs. Vinod Kumar Jain and Ors***[3]. He would further rely upon the decision of a Co-ordinate Bench of this Court in ***Jaiprakash Industries Ltd. and Anr. Vs. State of Maharashtra and Ors.***[4] to submit that the Tender authorities cannot be faulted for having, for all purposes and all participants, insisted on adherence to the terms of the Tender. This, in the present case, includes mandatory requirement of pre-registration on the IEMS portal, in consonance of the object with which subject Tender is floated.

33. In light of the above submissions, Mr. Seervai would urge that the Petition is devoid of merit and ought to be Dismissed.

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[3] (2022) 6 SCC 127

[4] Writ Petition No. 3663 of 2001, decided on 28th September 2001.

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III. Analysis & Conclusion:

34. At the very outset, the Petitioners before us, have approached this Court for a limited relief to permit the Petitioner-Company to participate in subject Tender floated by the Respondent No.1 on 16th October 2026. In such context, this Court is called upon to examine whether the Petitioner-Company is at all eligible/entitled to participate in such tender process. This, more particularly in light of the case of the Respondents being that the Petitioner-Company is not registered as Ethanol Vendor on the IEMS portal for supply to OMCs, which is the threshold requirement/pre-requisite for participation in the subject Tender. The gravamen of this proceeding lies in such determination.

35. We have heard the learned counsel for the parties, and with their assistance, perused the record. The Respondents had taken liberty to submit a short additional Affidavit, which was duly tendered to this Court on 29th October 2026. Also, the Petitioners have tendered a copy of the Affidavit-In-Rejoinder dated 28th October 2026, after the matter was reserved for judgment on 29th October 2026. Apart from the Affidavit-In-Reply dated 28th October 2026, filed on behalf of the Respondent No.1, the aforementioned pleadings are duly taken cognizance of in our judgment.

36. As we proceed to examine the issue/s before us, at first, it is

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necessary to refer to the definition of "Vendor/Registered Vendor" under the Definitions and Abbreviations as set out in the Tender document. The same reads thus:

> ***"DEFINITIONS AND ABBREVIATIONS***
>
> *...*
>
> *Vendor/Registered Vendor : Any legal entity registered with OMCs for the supply of Ethanol."*

37. Other important definitions from the Tender document would be that of the expression "Bidder" and "Successful Bidder" which reads thus:

> ***"DEFINITIONS AND ABBREVIATIONS***
>
> *...*
>
> *Bidder : A Vendor that participates in this Quantity Bid Tender by submitting an offer in accordance with the Tender conditions.*
>
> *Successful Bidder : A Bidder whose offered quantity is accepted, in full or in part, and to whom an allocation is made pursuant to this Tender."*

38. A perusal of the above would clearly indicate that in order to qualify as a bidder, the person ought to be a Vendor. For such purpose, the Vendor ought to be any legal entity 'registered' with the OMCs for supply of Ethanol. In other words, an entity who is not a "Vendor/Registered Vendor", does not fulfill the criteria of the "Bidder" as defined under the Tender document. Moreover, "Successful Bidder" is one whose offered quantity is accepted in full

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or in part and to whom an allocation is made pursuant to Tender. As far as the Petitioner-Company is concerned, the stage of it being a "Successful Bidder" would never arise, considering the fact that it does not meet the threshold requirement/criteria of a "Vendor/Registered Vendor" as defined (*supra*) for the purposes of bidding or being classified as a "Bidder" under the subject Tender document.

39. In addition to the above, a careful perusal of the Tender document, would reveal that the pre-requisite of prior registration with the IEMS portal for supply of said Ethanol to the OMCs is also contemplated in Annexure – VII which refers to *"IEMS – Vendor Activities and Obligations"*. This is to be read with Annexure – VIII – *"Other Terms and Conditions of this Tender"*. Clause B of Annexure – VIII reads thus :-

> ***"ANNEXURE-VIII: OTHER TERMS & CONDITIONS OF THIS TENDER***
>
> *....*
>
> ***B. APPLICABILITY OF VENDOR REGISTRATION EOI TERMSAND CONDITIONS***
>
> *Term(s) or condition(s) of the applicable "EOI for Enrolling bidders for Long Term Arrangement of Supply of Denatured Anhydrous Ethanol to Oil Marketing Companies (OMCs) locations for the period till 30.11.2025"; and/or "EOI for Enrolling bidders for Long Term Arrangement of Supply of Denatured Anhydrous Ethanol to Oil Marketing Companies*

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> *(OMCs) locations for the period till 31.08.2026"; and /or "EOI for Enrolling bidders for Long Term Arrangement of Supply of Denatured Anhydrous Ethanol to Oil Marketing Companies (OMCs) locations for the period till 31.10.2027" will be applicable...."*

40. A perusal of the above would indicate that there is a categorical reference to the EOI, in the aforementioned clause of Annexure – VIII. In view thereof, the submission of the Petitioners through Mr. Dwarkadas that the attempt made by the Respondents to import additional condition of enrollment as per the EOI issued in January 2025 is an 'afterthought', falls short of persuading us, as it is not supported by the Tender document/record.

41. Referring to Annexure VII of the Tender Document, Mr. Dwarkadas has sought to draw a distinction between "Bidders", "Existing Suppliers" and "New Registered Suppliers" in the context of training sessions for IEMS, which is not made applicable to the "Bidders". Such submission is misconstrued as the expression "Supplier" is, *inter alia* defined as a Successful Bidder who at primarily has to be a "Bidder" under the subject Tender. Further, the expression "Bidder" takes into its fold a "Vendor/Registered Vendor", as defined under the Tender Document, as discussed above. In view thereof, such submission of Mr. Dwarkadas does not cut ice in favour of the Petitioners nor does it assist the case of the

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Petitioners, on the basis of the purport, intent and language used in the Tender document.

42. Mr. Dwarkadas was at pains to submit that the subject Tender is not a limited Tender. To the contrary, the document tendered by him at the Bar being 'Notice Inviting Tender' which appears to be a screenshot of the website, refers to the subject Tender published on 16th October 2026 as a "Limited Tender". This is to mean that it is not open to all persons but would be restricted to certain vendors/registered vendors as defined in the Tender document *(supra),* meeting the qualification criteria prescribed therein. We, therefore, cannot subscribe to the submission of Mr. Dwarkadas, in this regard.

43. This Court put a specific query to Mr. Seervai, learned senior counsel for the Respondents to clarify whether all parties/entities which have participated in subject Tender are duly registered as Ethanol vendors on the IEMS portal. To this, a clarificatory Affidavit dated 29th October 2026 has been filed on behalf of the Respondent No.1. It categorically states that the subject Tender will only be open to the 519 parties/entities registered on IEMS portal as vendors for supply of the said Ethanol to OMCs, prior to the floating of the subject Tender. It is further clarified that no bids of entities other than the 519 entities duly registered on the IEMS portal will

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be accepted, even after the extension of time of submission of bids, until 5th November 2026, from the earlier date of 1st November 2026. This is an uncontroverted factual position.

44. Mr. Dwarkadas had led much emphasis on Annexure – XI of the Tender document which refers to *"General Instructions to Vendors, for E-Tendering"*. This, to submit that the Petitioners have duly followed the procedure as stipulated under the said Annexure/general instructions. He would connect this with the email dated 22nd October 2026 at 12.00 hrs received from the Respondent No.1, addressed to the Petitioners. For the sake of completeness, the email is reproduced as under:

> *"22nd October 2026 at 12.00PM*
>
> ***BPCL E-tendering portal Online Enrollment***
>
> *Dear syedzahir@alpinehousing.com,*
>
> *Your request for registration in BPCL E-tendering portal has been accepted. For further process, kindly go through the "Bidders Help Manual Kit" available in the home page of the portal.*
>
> *Above e-tender has been published for you by BPCL on the e-procurement site that* ***https://bpcltenders.eproc.in.***
>
> *You can View & Respond to tender by accessing and login to the site.*
>
> *Please note, to carry out any transaction on the website it is mandatory to have a Valid Digital certificate/Digital signature.*
>
> *All the details like browser settings, viewing tender, submitting the bid on-line bid etc. are mentioned in the [Instruction to bidders] hosted at https://bpcltenders.eproc.in The [System Requirement] can be accessed on home page under download section [click on Manual link] for Bidding*

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Manual for e-tenders.

Please note that this is e-tender and response/bid is to be submitted only on https://bpcltenders.eproc.in. Any other mode shall not be considered.

Please get in touch with the helpdesk team if you require any assistance. Numbers are available on the home page under Contact list link.

*Please email your issues on **bpclsupport@c1india.com** before you call helpdesk. This will help us serving you better.*

Regards,

C1 India Support Team"

45. A bare perusal of the above email which is to be read in totality, would clearly indicate the following:

a) The email specifically records that the above E-Tender has been published by the Respondent No.1-BPCL on the E-Procurement site as noted therein.

b) The email records that this E-Tender and Response/Bid is to be submitted only on the website of E-Procurement and any other mode shall not be considered.

46. Apropos the above, the record bears out that the Petitioners attempted to follow the prescribed procedure for registration on the E-Procurement website, as also stated in the above email. It was at this stage that the Petitioners could not move further from Step 4 i.e. *"Click on Action Button To Participate in Tender (Tender*

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Consolidated View)" to Step 5 i.e. *"Download Tender Document-Click on the Icon"*, which steps are envisaged under the Bidders Manual. The Petitioners admittedly 'got stuck' at Step 4 and could not download the Tender document at Step 5.

47. At this juncture, it is necessary to clarify that the registration which Mr. Dwarkadas refers to and the prior registration with IEMS portal are distinct, different and are not the same/similar, neither can the same be construed interchangeably. The E-Procurement platform is a common platform utilized by the Respondent No.1 for procurement of various goods and services. On a perusal thereof, it is clear that it is not specific to the procurement of Ethanol. In this context, the above email merely confirms registration on the E-Procurement portal managed by CI India Software on behalf of Respondent No.1-BPCL, which is the initial/preliminary step in the registration process, as set out in the Tender document. Mere registration on the E-Procurement portal, which is general in nature, cannot be misconstrued or misunderstood as approval by the OMCs on IEMS, as the same does not confer registration as an Ethanol Vendor with IEMS, a requisite precursor, for qualifying in the subject Tender and moving forward thereafter.

48. The record bears out that even on a plain interpretation of the Tender document, it becomes evident that the general registration

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on the E-Procurement portal as claimed by the Petitioners to create rights in their favour does not obviate the pre-requisite/threshold requirement of registration on the IEMS portal for supply of the said Ethanol to OMCs, in terms of the subject Tender document. It is for such reason that the Petitioner-Company not being Vendor/Registered Vendor as categorically defined/stipulated in the Tender document *(supra)*, was unable to download the Tender document at Step 5 and failed to proceed further from Step 4. There is no other reason coming out from the record, for the registration of the Petitioner-Company, not going through further after Step 5 *(supra)*.

49. We have also noted the submission of Mr. Dwarkadas to the effect that there have been repeated emails and telephonic request from the Petitioners, with no response from the Respondents. Also, the Petitioners became aware about the requirement of registration with IEMS for the first time from the Affidavit-in-Reply dated 28th October 2026 filed on behalf of the Respondent No.1 in this proceeding. This submission cannot be accepted. This for the reason that the Tender Document as elaborately narrated above contemplates registration with the IEMS for supply of the said Ethanol to the OMCs as a pre-requisite for participation in the subject Tender. Moreover, taking refuge under certain subsequent

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emails addressed by the Petitioners would pale into insignificance as, in the given case, the Petitioners have failed to meet the very threshold requirement of registration with the IEMS, for proceeding further in the subject Tender.

50. Mr. Dwarkadas is at pains to point out that the Petitioners have invested about Rs. 250 Crores in establishing an Ethanol production plant and have obtained requisite permissions/certifications. We do not see how and in what manner this would assist the case of the Petitioners. They have failed to meet the threshold requirement of registration with IEMS for supply of said Ethanol to OMCs which is the starting point for participation in the subject Tender. This Court, therefore, cannot go beyond the terms and conditions of the Tender document.

51. Mr. Dwarkadas has laid much stress to submit that the Tender document suffers from vagueness/uncertainty and therefore, does not make the conditions clear to an Applicant/Bidder. In this regard, it is to be noted that 519 parties/entities have duly registered on the IEMS portal as vendors for supply of said Ethanol to the OMCs, prior to floating of the subject Tender. The Petitioners are certainly not novice in such specialized and sophisticated business. In the given facts and circumstances, this Court is unable to countenance a situation

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where only one entity i.e. the Petitioner-Company should be allowed to participate in the subject Tender despite not meeting the threshold criteria for qualification in the subject Tender being prior registration with the IEMS. In such situation, this Court is not persuaded by the contention urged by Mr. Dwarakadas that the Tender conditions are uncertain and/or vague.

52. We may now advert to the Judgments cited by Mr. Dwarkadas in ***Reliance Energy Limited*** *(supra)* and ***Maha Mineral Minning*** *(supra)*. Taking the first judgment cited by Mr. Dwarkadas and applying it on given facts, here is a case where the subject Tender in its present form has in fact provided a level playing field to its participants. Accordingly, 519 tenderers have applied who were qualified to participate in the Tender process after meeting the threshold criteria of registration with the IEMS for supplying the said Ethanol to the OMCs, as stipulated in the Tender document. Accepting the submission of Mr. Dwarkadas on this score would militate against the doctrine of level playing field and in fact render such mandatory pre-requisite of prior registration with the IEMS, in the Tender document, redundant.

53. There cannot be any quarrel with the principle laid down in the said decision that “opportunity” is a part of right to life under Article 21 of Constitution of India. The Petitioners in the given facts

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had adequate and reasonable opportunity to enroll as a registered Vendor with the IEMS post 13th January 2025 when the EOI was published, up to 16th October 2026 when the Tender was floated. The Petitioners failed to avail of such opportunity due to non-compliance of threshold requirement, as per the Tender document which led to their ineligibility and consequent non-participation in the subject Tender. In view thereof, the decision of the Supreme Court in ***Reliance Energy Limited*** *(supra)* is of no assistance to the Petitioners in the given factual complexion.

54. Similarly, the decision relied on by Mr. Dwarkadas in ***Maha Mineral Mining*** *(supra)* is also perused. This is cited on behalf of the Petitioners for the reason that the conditions of a Tender document must be clear and ambiguous. Applying the ratio/reasoning of the said decision in the given facts is of no assistance to the Petitioners in as much as the requirement of pre-registration with the IEMS is very much embedded in the Tender document, which is made uniformly applicable, to all the participants, *sans* exception.

55. Moreover, right up to the Rejoinder filed in Court and argued at the Bar, the Petitioners have not pleaded any case of *mala fides* against the Respondents. In view thereof, we are unable to accept the submission of Mr. Dwarkadas that vagueness or subjectivity or

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uncertainty in the Tender terms may result in unequal or discriminatory treatment. In fact in the event if the Petitioners are allowed to participate in the subject Tender, that would lead to discrimination *qua* other 519 participants who have duly met the threshold criteria of being registered as an Ethanol Vendor with IEMS, so as to participate in the subject Tender. Such approach would be in the teeth of Article 14 *qua* the other 519 participants, which the Writ Court, in the given factual backdrop cannot permit.

56. We would now advert to the decisions cited by Mr. Seervai in ***N.G. Projects Ltd.*** *(supra)* and ***Jaiprakash Industries Ltd.*** *(supra).* More particularly, in paragraph 22 of the decision in the case of ***N.G. Projects Ltd.*** *(supra),* the Supreme Court dealt with a situation of 15 bidders out of which, bids of 13 tenderers could not satisfy the tender conditions, the Petitioner therein, being one of them. Even in that case, the plea of *mala fides* and/or extraneous condition was not taken. Similar is the fact situation in the given case. In view thereof, the Writ Court ought to refrain itself from imposing its decision over the decision of the employer as to whether or not to accept the bid of a tenderer. The Court lacks expertise to examine the terms and conditions of present day economic activities of the State, which limitation should be kept in mind, in larger public interest. We are duly directed by such

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principles.

57. Mr. Dwarkadas has attempted to distinguish the said decisions cited by Mr. Seervai as clearly being not applicable. However, we do not find much merit in the distinction sought to be made out. The principles of law, dovetailed with the facts set out in the judgments cited by Mr. Seervai, are both apposite and applicable in the given factual complexion.

58. In our view, to lend more clarity on the legal nuances, it is both necessary and expedient to refer to decisions of Supreme Court in ***Agmatel India Private Limited vs. Resoursys Telecom and Ors***[5] and ***Galaxy Transport Agencies vs. New J. K. Roadways, Fleet Owners & Transport Contractors***.[6] The statement of law laid down in the said decisions is that the author of the Tender document is the best person to understand and appreciate its requirements, and thus, its interpretation should not be second guessed by a Court in a judicial review proceedings. A similar view has been taken by this very Bench in the recent decision in ***M/s. Vidya Caterers Vs. Bharat Petroleum Corporation Ltd. & Ors.***[7] This to the effect that the Courts would exercise restraint in such matters. Even if the interpretation given

[5] (2022) 5 SCC 362
[6] (2016) 16 SCC 818
[7] Writ Petition (L) No.29700 of 2026, decided on 9th October 2026

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to the Tender document is not as such acceptable to the Writ Court, that by itself would not be a reason for interfering with the interpretation given by the author of the given Tender particularly when it cannot be faulted on the ground of vagueness or uncertainty. We are not inclined to deviate therefrom.

59. In light of the above, the Writ Petition makes out no ground for interference by this Court and is Dismissed. Rule is Discharged. No Costs.

60. All concerned to act on an authenticated copy of this Judgment and Order.

[ADVAIT M. SETHNA, J.] **[CHIEF JUSTICE]**

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