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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 3096 OF 2023**

**MAHENDRANATH VIDYANIWAS
TRIVEDI,**
Sole Proprietor of M/s Carlton Industrial
Engineers:
Age 74 Yrs, Occ-Business
Having address at:- 221, Bussa Industrial
Estate, Century Bazar Lane, Prabhadevi,
Mumbai 400 025.

...Petitioner

~ VERSUS ~

- 1. STATE OF MAHARASHTRA,**
Mantralaya, Mumbai 400 001.
- 2. OIL AND NATURAL GAS
CORPORATION LTD,**
IMR, Offshore Logistics Mumbai
Region,
Having office at:- 711, 7th floor,
11 High Building, Bandra Sion Link
Road, Sion (W), Mumbai 400 017.
- 3. OIL AND NATURAL GAS
CORPORATION LTD,**
Offshore Engineering Services (OES),
Having address as:- 4th floor, 11 High
Building, Bandra Sion Link Road,
Sion (W), Mumbai 400 017.

4. **OIL AND NATURAL GAS CORPORATION LTD,**
Having Registered office at:-
Pandit Deen Dayal Upadhyaya Urja
Bhawan, 5, Nelson Mandela Marg,
Vasant Kunj, New Delhi 110 070
India.
5. **UNION OF INDIA,**
Through Ministry of Petroleum and
Natural Gas,
Having office at:- Shastri Bhavan,
New Delhi 110 001.
6. **INDEPENDENT EXTERNAL MONITOR,**
Having Registered office at:-
Pandit Deen Dayal Upadhyaya Urja
Bhawan, 5, Nelson Mandela Marg,
Vasant Kunj, New Delhi 110 070,
India.

... RESPONDENTS

APPEARANCES

FOR THE PETITIONER **Mr Bhupesh Dhumatkar, i/b Mansi Patel.**

FOR RESPONDENTS NOS 2 TO 4. **Mr Navroz Seervai, Senior Advocate, Yash Dhruva, Khushbu Chajed & S Malbari.**

FOR RESPONDENT NO.5-UOI **Mr Abhishek Bhadang, with Ashutosh Misra.**

FOR RESPONDENT- STATE **Mr Amit Shastri, AGP.**

**CORAM : G.S.Patel &
Neela Gokhale, JJ.**

DATED : 27th February 2023

ORAL JUDGMENT (*Per GS Patel J*):-

1. We have every reason to doubt the Petitioner's bona fides. There are seriously disputed questions of facts.
2. The 31st January 2023 order by the contesting Respondent and which is assailed in this Petition notes *inter alia* that the Petitioner through his proprietorship submitted an "undated revised certificate" issued by the Deputy General Manager (P), IMR Section Offshore Logistics of Oil And Natural Gas Corporation Ltd ("ONGC"). The 31st January 2023 communication says that it is on the basis of this undated revised certificate that the Petitioner's offer for a contract No. ONG/COL/HMM/CSR/USS/471/2015-16/P76KC16005 (9010024782), for the strengthening of underwater structural members of Platform and installation of grouted clamps in Western Offshore was considered and was found to be technically acceptable.
3. It is argued before us that the Petitioner knows nothing about the so-called undated document, a copy of which is at Exhibit "D" at page 77, and that this was supposedly produced by ONGC itself. Emphasis is laid on a job completion certificate signed by the same DGM of 5th June 2017 at page 76.

4. Prima facie it is difficult to understand what is to be made of this, because the ONGC accepts the issuance of 5th June 2017 job completion certificate at Exhibit "C" but maintains that it was the Petitioner who produced the so-called certificate at Exhibit "D" and which bears no date.

5. Even more peculiarly, the undated certificate seems to shower compliments on the Petitioner, apart from wishing him great success and all good luck. To say that we have never seen ONGC or its officers acting in so magnanimous fashion with any contractor might be a great understatement. The impugned document of 31st January 2023 in paragraphs 7, 8 and 9 at page 316B says this:

"7. AND WHEREAS, the Enquiry Officer has duly issued a show cause notice bearing no. MR/MUM/TA-BA/Banning/Carlton/2022 dated 05.12.2022 to M/s Carlton Industrial Engineers, Mumbai for showing cause, within ten (10) days from the receipt of the said notice, as to why business dealings with you including your allied concerns, partners, associates, directors, or proprietors etc. should not be banned/put on holiday for misrepresentation of facts against the ONGC tender.

8. AND WHEREAS, M/s Carlton Industrial Engineers, Mumbai have submitted their response to the show cause notice vide mail dated 14.12.2022 subsequent to their required personal hearing on 09.12.2022.

9. AND WHEREAS, upon completion of the Inquiry, Enquiry Officer, after perusal of all relevant documents/materials placed before him, came to be conclusion that M/s Carlton had submitted the revised undated completion certificate in collusion with Project Coordinator of work ("Strengthening of underwater

structural members of platforms and installation of grouted clamps in western offshore” or IMR Section, Offshore Logistics, ONGC) with a sole intent to take advantage and get themselves qualified for tender no. P851C19002 and hence, recommended for putting M/s Carlton Industrial Engineers, Mumbai on holiday for a period of six (6) months from the date of issue of Banning order.”

6. We are asked to believe that there is something amiss in ONGC’s approach, conclusion and order and that the Petitioner is blameless because there is no fault found with him regarding the so-called integrity pact. That is not credible. It is not a question of the integrity pact. It is a question of a public tender process undertaken by a public body like ONGC being subverted by producing documents that are ex facie dubious.

7. The real purpose of the Petition is disclosed by prayer clauses (c) and (d) which read thus:

“(c) That his Hon’ble Court be pleased to issue a Writ of Certiorari or a writ in the nature of Certiorari and/or any other writ, order or direction under Article 226 of the Constitution of India and be pleased to quash and set aside the order dated 21st September 2021 along with the newly issued Completion Certiorari which bears the name of Nautic Offshore Pte Ltd as technical collaborator.

(d) That this Hon’ble Court be pleased to issue a Writ of Mandamus or a writ in the nature of Mandamus and/or any other writ, order or direction under Article 226 of the Constitution of India and be pleased to direct the Respondent nos. 1 to 6 to accept the old Completion Certificate issued to the Petitioner by Respondent Nos. 2 to 5 bearing only Petitioner’s name as the contractor.”

8. This lets the proverbial cat out of the bag. It is evident that the Petitioner had more than one completion certificate up his sleeve and now wants a ratification or an endorsement of some new completion certificate.

9. At the very least, these are seriously disputed questions of fact. We see no way to adjudicate them in our summary jurisdiction under Article 226 of the Constitution of India. There is no question of granting the Petitioner any ad-interim relief in light of the pointed reference to documentation that is not only disputed but is *prima facie* said to have been produced by collusion with one of ONGC's own officer.

10. The Writ Petition is rejected. There will be no order as to costs.

(Neela Gokhale, J)

(G. S. Patel, J)