

GAHC010058242026



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**THE GAUHATI HIGH COURT**  
**(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

**Case No. : WP(C)/1684/2026**

M/S KITCHENMATE  
THROUGH ITS AUTHORIZED DIRECTOR MR ARUP MANDOL, HAVING ITS  
OFFICE AT JUNCTION OF VIDYASAGAR AVENUE AND KIRTIBAS ROAD  
NORTH, DURGAPUR STEEL TOWNSHIP, B ZONE, DURGAPUR- 713205,  
WEST BENGAL.

VERSUS

THE UNION OF INDIAN AND 6 ORS  
REPRESENTED BY THE MINISTRY OF PETROLEUM AND NATURAL GAS  
THROUGH ITS SECRETARY A -WING, SHASTRI BHAWAN, DR. RAJENDRA  
PRASAD ROAD, NEW DELHI 110001

2:THE INDIAN OIL CORPORATION  
REPRESENTED BY THE CHIEF GENERAL MANAGER  
INDIAN OIL CORPORATION LIMITED (IOCL)  
INDIAN OIL AOD STATE OFFICE

SECTOR-III  
NOONMATI  
GUWAHATI- 781020

3:THE GENERAL MANAGER L.P.G. (OPERATIONS)  
THE INDIAN OIL CORPORATION LIMITED (IOCL)  
INDIAN OIL AOD STATE OFFICE

SECTOR-III  
NOONMATI  
GUWAHATI- 781020

4:THE MANAGER L.P.G. (OS)  
THE INDIAN OIL CORPORATION LIMITED (IOCL)

INDIAN OIL AOD STATE OFFICE

SECTOR-III  
NOONMATI  
GUWAHATI- 781020  
ASSAM

5:THE DEPUTY MANAGER L.P.G. (FINANCE)  
THE INDIAN OIL CORPORATION LIMITED (IOCL)  
INDIAN OIL AOD STATE OFFICE

SECTOR-III  
NOONMATI  
GUWAHATI- 781020  
ASSAM

6:THE DEPUTY MANAGER L.P.G. (SALES)  
THE INDIAN OIL CORPORATION LIMITED (IOCL)  
INDIAN OIL AOD STATE OFFICE

SECTOR-III  
NOONMATI  
GUWAHATI- 781020

7:CHIEF MANAGER LOGISTICS (LPG)  
EAST  
BHARAT PETROLEUM CORPORATION LIMITED  
BHARAT BHAVAN  
PLOT NO- 31  
PRINCE GULAM MD. SHAH ROAD  
GOLF GREEN

KOLKATA  
WEST BENGAL- 70009

**Advocate for the Petitioner** : MR S BORTHAKUR, MS J SAIKIA,MR. U S BORA

**Advocate for the Respondent** : DY.S.G.I., SC, I O C,SC, BPCL

**BEFORE  
HONOURABLE MR. JUSTICE MANISH CHOUDHURY**

**ORDER**

**20.03.2026**

Heard Mr. U.S. Bora, learned counsel for the petitioner; Mr. M. Sarma, learned Standing Counsel, IOC for the respondent nos. 2 – 6; and Mr. S. Borthakur, learned counsel for the respondent no. 7.

2. Pursuant to a Notice Inviting Tender [NIT] for a contract-work, 'Bulk LPG Transportation Contract by Road for the State of Assam & Meghalaya', the petitioner offered 3 nos. of Tank Trucks [TTs] in his bid. As there was provision in the Bidding Document to offer Tank Trucks [TTs] in respect of which the bidder had entered into an Agreement to Sale [ATS] with owner[s] of Tank Trucks [TTs] then a bidder can also offer such Tank Trucks [TTs] as owned Tank Trucks [TTs].

3. By a Corrigendum published on 04.04.2025, certain modifications were made in respect of the clauses earlier existing as regards Petroleum and Explosive Security Organization [PESO] licenses and the transfer of ownership of the TTs which were to be offered with ATS condition. By the Corrigendum, bidders were asked to submit the required documents with change of name of ownership of such TTs within four months of issuance of LoI along with the PESO license in the name of the bidder, who as the proposed purchaser had entered into ATS with proposed seller[s].

4. A Letter of Acceptance [LoA] was issued to the petitioner on 16.09.2025 accepting 7 nos. of TTs including 3 TTs bearing registration nos. NL-01/L-3694, NL-01/L-3096 & NL-01/L-3097 with ATS condition. As within four months from the LoA the petitioner could not offer the three TTs under ATS with requisite documents regarding transfer of ownership and PESO license, a Show Cause Notice was issued on 05.03.2026 while putting the said three TTs under suspension with immediate effect. It was mentioned in the Show Cause Notice that in the event the Reply of the petitioner was not found satisfactory then consequential punitive

action like forfeiture of EMD and Caution Money and termination of contract, etc. would be initiated against the petitioner.

5. The petitioner had submitted a Reply on 16.03.2026 explaining the causes why the requisite conditions could not be complied within a period of four months from the LoA. One of the grounds cited is that the proposed purchaser in the ATS was in an existing contract with the BPCL with validity up to 31.08.2025. Subsequently, the validity of the said existing contract was extended to 28.02.2026 making them unavailable for change of ownership and obtaining the PESO license in the name of the petitioner. As a result, the petitioner as the proposed purchaser could not complete the requisite formalities of transfer of ownership and PESO license in his name within such period of four months from the date of the LoA. However, the petitioner could complete the requisite formalities of change of ownership and PESO license in respect of three TTs in the meantime.

6. As it had been indicated in the Show Cause Notice that action would be initiated, the petitioner is before this Court by the instant writ petition with an apprehension that without giving due consideration to its Reply, the punitive action would be taken.

7. Mr. Bora has submitted that mere failure on the part of a contractor to comply with a condition of the Bidding Document/Contract Agreement for bona fide reason cannot be a ground for the employer to take any drastic measure like blacklisting, etc.

8. Mr. Sarma, learned Standing Counsel, IOCL authorities has submitted that the terms and conditions of the tender process under reference is independent of any other contract the IOC had entered into for the same nature of works for deployment of TTs. The compliance of the terms and conditions of the tender process under reference including the conditions of obtaining the requisite documents as regards change of ownership and PESO license within a period of four months from LoA has been adhered to by the respondent IOC and as such, no fault can be attributed to the respondent IOC authorities.

9. The matter would require examination.

10. Issue notice, returnable on 22.04.2026.

11. As Mr. Sarma has appeared and accepted noticed on behalf of the respondent nos. 2 – 6 and Mr. Borthakur has appeared and accepted noticed on behalf of the respondent no. 7, issuance of formal notices to the said respondents are dispensed with. However, requisite nos. of extra copies of the writ petition along with annexures are to be furnished to Mr. Sarma and Mr. Borthakur within 2 [two] working days from today. Mr. Bora, learned counsel for the petitioner shall serve a copy of the writ petition along with annexures to the learned Deputy Solicitor General of India [DSGI] within 2 [two] working days from today to serve the notice to the respondent no. 1.

12. It is the contention of the petitioner that though the requisite formalities with regard to change of ownership and PESO license in respect of the three TTs [under suspension] could not be completed within a period of four months from the LoA for reasons beyond the control of the petitioner as indicated in the Reply to the Show Cause Notice the petitioner with his best efforts could complete the requisite formalities before issuance of the Show Cause notice. The said facts have been highlighted in the Reply to the show cause notice submitted on 16.03.2026. The respondent IOC authorities while giving consideration to the Reply are required to give due consideration also the reasons assigned by the petitioner requiring more than four months from the LoA to comply.

13. The petitioner has stated that a genuine apprehension has arisen that the punitive action as indicated in the show cause notice would be taken wherein no fault can be attributed to the petitioner solely. It is expected that the respondent IOC authorities shall give due consideration to the explanation provided by the petitioner while taking a call pursuant to the Show Cause Notice. It is further observed that till the respondent IOC authorities give final consideration to the process initiated by the Show Cause Notice, they shall not enter into any alternative arrangement as against the three TTs, placed under suspension without leave of this Court till the returnable date. Continuation of the interim relief will be revisited on the returnable date.

14. It is, therefore, observed that pendency of the writ petition shall not be a bar for the respondent IOC authorities to consider the Reply to the Show Cause Notice submitted by the petitioner and to pass a final order on it. Any final order passed therein is made subject to further orders.

**JUDGE**

**Comparing Assistant**