



मंगलूर रिफाइनरी एण्ड पेट्रोकेमिकल्स लिमिटेड MANGALORE REFINERY AND PETROCHEMICALS LIMITED

(ऑयल एण्ड नेचुरल गैस कॉर्पोरेशन लिमिटेड की सहायक कंपनी) (A Subsidiary of Oil and Natural Gas Corporation Ltd)

कुत्तेचूर पोस्ट, वाया काटीपल्ला, मंगलूर Kuthethoor P.O., Via Katipalla, MANGALORE - 575 030

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"AN ISO 9001 AND 14001 CERTIFIED COMPANY"

By Registered Post A.D.

FIRST APPELLATE AUTHORITY

UNDER SECTION 19 (1) OF THE RIGHT TO INFORMATION ACT, 2005

Decision No.: 001/2010

Appeal No.: FAA / 001/2010

April 26, 2010

Name of the Appellant : Shri A K Jha
H.No. D-18, First Floor
100 Feet Road
Near Syndicate Bank
Chhatarpur, New Delhi – 110 074

Name of the Public Authority : Mangalore Refinery and Petrochemicals Ltd.,
Kuthethoor Post,
Mangalore – 575 030.

The present appeal dated Nil received in this office on April 06, 2010 has been preferred by Shri A K Jha, hereinafter referred to as the appellant, against the reply /decision bearing reference No. MRPL/HR/RTI/37/2009 dated 3rd March, 2010 of Shri Chandermani, CPIO, Mangalore Refinery and Petrochemicals Limited, Mangalore – 575 030.

Facts:

Shri A K Jha, the applicant, vide application bearing reference No. RTI/MRPL/00919-10/2009-10 dated January 28, 2010, received by CPIO on February 08, 2010, sought following information. Thus, the CPIO provided the following information on March 03, 2010.

The extract of original application made by the applicant, reply given by the CPIO and thereafter appeal preferred by the appellant are reproduced hereunder:

Sl. No	Query by the applicant	Reply by the CPIO	Appeal by the appellant
1	2	3	4
1.	Was a tender for supply of CRUMB	Yes	-

	RUBBER MODIFICATION PLANT FLOATED by MRPL		
2.	If the reply to (1) above is in affirmative full details of the same may please furnished.	Open Public Tender was floated vide tender dt. 19/08/2005 with Pre-Qualification Criteria for the bidders as per Annexure -1 enclosed – 3 pages.	-
3	Was the work order extended twice for one year and five year respectively.	Initial order was placed for 2 years period and extended for one year. An order was further issued for further period with better terms favouring MRPL.	The reply to the question is incomplete as the PIO has not mentioned for period for which the work order was extended for the second term. He has also not replied as how the same vender in the absence of any other competitor vendor could be considered as favouring MRPL.
4.	If reply to No (31) above is in affirmative, were these prolonged extension permitted under the terms and conditions of the tender.	The contract was extended in line with procedure at Lower rates.	This reply is again vague and evasive. The PIO does not specify as to whether the second extension of five years was in accordance with terms and conditions of tender. Obviously, he has tried to hide and suppressed the facts that the prolonged extension of five years was no where provided on the tender. His contention of giving extension being on lower rates is also a lame excuse to hide the factual position, as according to my personal information much lower rates for providing much better quality of work were prevalent in the market at that time.
5.	A copy of any test report by some approved lab confirming that the CRMB manufactured during the second extension period	MRPL certifies the product as per standards. There is no approved lab for such product.	In the annexure of Tender under the heading 'pre-qualification criteria para 6 It is specifically mentioned that the bidder shall have the capability for modification of bitumen meets all specification of IS:15462 of 2004 and should have been tested and approved by one of the six lab (as tested

	conform to BIS STANDARD: 15462 may be supplied.		from (a) to (f). It is apparent that the reply of PIO is contrary to the factual position and he has even not supplied even a copy of test report by MRPL as contended by him.
6.	Did any manufacturing unit approached you SU-MOTTO offering better product at much lower rates when period of work order was being extended by MRPL.	There was no 'Invitation to offer' or any Expression of Interest' from MRPL on this matter. As such, MRPL does not want to comment on quality or rates of suo-moto offer of any third party.	To the best of my knowledge a company namely M/s Duraflex Services and Construction Technologies Ltd. (a break away group of M/s. Tinna Overseas Ltd the bidder to whom repeated extension were granted and special favour) approached MRPL offering them rates lower by 25% than the existing rates of M/s Tinna Overseas Ltd with an assurance of providing much better quality of work/product. The reply of PIO confirms that MRPL did not consider any other offer (even if was much favourable) perhaps having some under hand understanding with the vendor TOL.
7.	If so, was their claim verified or their offer rejected out right without listening to them.	Refer #6	The reply confirms my apprehension as stated above it appears that the officials at the helm of affairs at MRPL had no interest in their mind about the benefits of MRPL instead they wanted to favour the existing vendor (TOL) by allowing prolonged extension even if it was contrary to terms and conditions of the tender. The reason for the same are perhaps only known to them.
8.	Some copies of test reports (as may be selected by you) of CRMB-60 tested by some approved lab) which was supplied to the following parties during the extended period of work order may be furnished.	The tests are carried out at MRPL for certification of product for each batch produced and are not customer specific.	Even if the product had been tested at MRPL, (their lab too being an approved lab for test purposes) the PIO could have supplied some copies of test reports selected at random, but he instead of furnishing the information (by supplying copies of test reports) has shirked his responsibility as PIO required from him under RTI Act.

9.	Are the details of these test reports entered in records of MRPL?	Test reports of MRPL are recorded.	The PIO has not substantiated his reply by any evidence, if his version is correct he should have furnished some extracts from the records to support his reply.
10	Particular of parties to whom CRMB-60 was supplied during extended period of work order may be supplied.	Being commercial in nature this information is denied under Section 8 (1) (d) of RTI Act, 2005.	<p>Section – 8(1) (d) of RTI Act exempts disclosure of information where such information or intellectual property or disclosure of which harms the competitive position of a third of party. The rule further states that the competent authority may disclose this information if it is in interest of the public. The information asked for is neither a secret nor an intellectual property, it could not be harmful to competitive position of their party when such party did not exist at all. Since, a specific favour has been shown to a particular party by extending him the work order twice, it was in public interest to disclose this information as nothing can be monopolized in a trade as per provisions of monopolise act. The PIO taking reuse under section – 8(1) (d) of RTI Act is attempt on this part to divulge the truth.</p> <p>Since the information is rather in public interest as such it does not fall with in the preview of Rules 8(1) (d) of RTI Act-2005. As contended by the PIO.</p> <p>In addition to above it would be worthwhile to bring to your knowledge that M/s. Tinna Overseas Ltd. The present vendor of MRPL disintegrated in January 2009 by a court order. Consequently more than 90 percent of the technical and skilled staff as well as the two directors having technical know how of modification of CRMB and Manufacture of CRM said good bye to TOL. All of them joined under the banner of Duraflex Services and Construction Technologies Ltd.</p> <p>Although it was well within the knowledge</p>

			<p>of the concerned officials of MRPL that their vendor TOL is devoid of any technical staff or director having any experience or technical know how to handle the work order, but in spite of it they bestowed favour to TOL by grant of work order for further five years which was in contravention the terms and conditions of the Tender. There must had been some deep rooted reasons known only to the officials quality. Such extension in their favour.</p>
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Dissatisfied with the reply furnished by the CPIO, the appellant preferred the present appeal. The appellant in his appeal, inter alia, stated that the CPIO failed to give complete information sought by him. The appellant, therefore, requested that information sought by him be furnished to him. Views / Comments in respect of the appeal were called for from the CPIO.

DECISIONS: (Para wise)

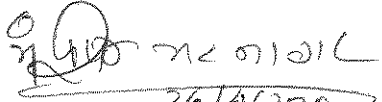
1. –
2. –
3. The Appellant had requested for mentioning the period for which the work order was extended for the second time. The CPIO is directed to provide this information to the Appellate within 15 days from the issue of this order, free of charge.

As regards, the observation of the applicant ate that the CPIO has also not replied as how the same vender in the absence of any other competitor vendor could be considered as favouring MRPL, my decision is that this is a fresh issue being raised in the appeal without being raised before CPIO. Therefore, this issue need not be addressed at this stage.

4. The CPIO is directed to provide information as sought by the Appellant.
5. It is confirmed that no such information is held by this Public Authority. Therefore, the decision of the CPIO is upheld.
6. The decision of the CPIO is upheld as neither any fresh tender was floated nor any qualified bidders submitted bids.
7. The CPIO is directed to address the issue and provide the available information within 15 days from the issue of this order, free of charge.

8. The decision given by the CPIO is upheld.
9. The decision of the CPIO is upheld.
10. This information is totally covered under the commercial confidence of this public authority and is denied under Section 8 (1) (d) of RTI Act, 2005.

A copy of this order be forwarded to the Appellant and the CPIO.


(Manjusha Bhatnagar) 26/4/2010.
General Manager (HR) / First Appellate Authority
Mangalore Refinery and Petrochemicals Limited
Mangalore – 575 030.
Telephone No. 0824 2219113

Copy forwarded to:

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2. Shri Chandermani
CPIO,
Mangalore Refinery and Petrochemicals Limited.
Mangalore – 575 030.
3. IS Department, MRPL for uploading on RTI Link of MRPL Website.