

HIGH COURT OF TRIPURA
_A_G_A_R_T_A_L_A_
IA No.01 of 2022 IN WA No.169 of 2022

Teloybam Suraj Sharma

..... Applicant(s)

V E R S U S

Sri Mohit Sinha and others

.....Respondent(s)

For Applicant(s) : Mr. P. Roy Barman, Sr. Advocate,
Mr. Samarjit Bhattacharjee, Advocate,
Mr. Kawsik Nath, Advocate,
Mr. Koomar Chakraborty, Advocate.

For Respondent(s) : Mr. B.N. Majumder, Sr. Advocate,
Mr. Rajib Saha, Advocate.

HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE T. AMARNATH GOUD

_O_R_D_E_R_

22.05.2023

Heard learned counsel for the parties.

The instant appeal suffers from a delay of 06 days for condonation of which IA No.01 of 2022 has been preferred.

After hearing learned counsel for the parties and the explanation urged, minor delay of 06 days in preferring the instant memo of appeal, is condoned.

Application stands disposed of.

WA No.169 of 2022

Heard learned counsel for the parties on the main appeal.

Petitioner is the appellant aggrieved by the dismissal of WP(C) No.533 of 2021 vide order dated 13th September, 2022 whereby and whereunder the learned Writ Court refused to interfere in the decision of the respondent-Indian Oil Corporation Limited in extending the time limit for setting up of a Go-down for LPG storage upon the respondent No.1 in whose favour the Letter of Intent was issued. Learned Writ Court was of the view that the appropriate authority i.e. the IOCL has the discretion to consider the feasibility of its business and extend time limit for setting up of the Go-down at an alternative site which does not call for interference in exercise of writ jurisdiction.

As the undisputed facts disclose, a lottery was held for allotment of LPG storage Go-down amongst 14 eligible applicants in which respondent No.1 turned out to be the lucky one. In terms of Clause-19 of the Guidelines, the selected candidate had to fulfill the condition specified in the LOI within a period of four months from the date of LOI or the time limit given by the OMC, failing which the LOI was liable to be withdrawn along with forfeiture of the amount remitted by the selected candidate before FVC.

It is the case of the respondent-IOCL that the site proposed by the successful applicants had certain objections from neighbourers, as a result of which, an alternative site was identified by the selected candidates. After due verification and reviewing on all aspects and on being satisfied, the respondent-IOCL issued the LOI in favour of respondent No.1 for granting permission for changing the place for construction of Go-down.

This, according to the petitioner, was not in consonance with Clause-20 of the terms of the guidelines which provided for conditions for re-draw. According to the petitioner, the conditions stipulated in Clause 20(a)(ii) was not fulfilled by the successful applicant who failed to submit documents within the stipulated time. Had the lotteries been re-drawn, petitioner being one of the eligible candidates would have had a chance to compete amongst all other eligible applicants. The respondent-IOCL has given a long rope to the respondent No.1 to change the site in teeth of the terms of the guidelines, and the advertisement at page 43 of the memo of appeal.

Learned senior counsel for the respondent-IOCL submits that Clause-19 permits the Oil Marketing Company to extend the time limit for fulfillment of the conditions beyond the period of four months for justifiable reasons. It is submitted that since the respondent No.1 could not get a free site as earlier proposed within the period of four months due to

objections from neighbourers, the alternative site proposed by the respondent No.1 was found to be in order after due verification and reviewing all aspects. He submitted that the learned Writ Court has, therefore, rightly refused to interfere in the matter under Article 226 of the Constitution of India as the respondent-employer has to be given flexibility in the joints to relax the condition as stipulated under Clause-19 of the guidelines for justifiable reasons. As such, the appeal is without merit and the same may be dismissed.

We have considered the submissions of learned counsel for the parties, taken note of the relevant terms of the advertisement and the guidelines framed by the IOCL. Clause-19 of the guidelines is not under challenge. It permits IOCL to extend the time limit for fulfillment of the conditions beyond the period of four months. On facts it is noticed that the earlier site was not free on account of objections from the neighbours and as such, respondent No.1 could obtain another site after some delay which the IOCL was satisfied with after due verification and reviewing on all aspects before issuance of the LOI. Learned Writ Court has rightly refused to interfere in such matter as it does not lie within the domain of the Writ Court to step into the shoes of the employer so far as the compliances or relaxation under the terms of the guidelines are concerned.

We, therefore, find no merits in the appeal and the same is, accordingly, dismissed. Pending application(s), if any, also stands disposed of.

(T. AMARNATH GOUD), J

(APARESH KUMAR SINGH), CJ

