

Court No. - 40

Case :- WRIT - C No. - 23368 of 2023

Petitioner :- Murari Ram

Respondent :- Hindustan Petroleum Corporation Ltd. And 2 Others

Counsel for Petitioner :- Yash Padia

Counsel for Respondent :- Komal Mehrotra

Hon'ble Mahesh Chandra Tripathi,J.

Hon'ble Prashant Kumar,J.

1. Heard Shri Yash Padia, learned counsel for the petitioner and Shri Komal Mehrotra, learned counsel for Hindustan Petroleum Corporation Ltd. (HPCL).

2. Present writ petition has been preferred for following reliefs:-

"(i) Issue a writ, order or direction in the nature of certiorari calling for the record to quash the impugned order dated 7.6.2023 passed by respondent no.2 (Annexure No.16 to this writ petition).

(ii) Issue a writ, order or direction in the nature of mandamus restraining the respondents from creating any third party interest during the pendency of the present writ petition with respect to the advertised site.

(iii) Issue a writ, order or direction in the nature of mandamus commanding the respondent Oil Corporation to consider the petitioner's claim for allotment of retail outlet dealership at Village Kharihani, Tehsil-Mehnagar on Chairaiyyakot to Mehnajpur Road MDR 53 District-Azamgarh."

3. The petitioner through this writ petition has challenged the impugned order dated 07.06.2023 passed by the respondent No.2, rejecting his claim for a retail outlet dealership in Village Kharihani, Tehsil-Mehnagar, District-Azamgarh, following an advertisement by the respondent corporation. The respondent corporation issued an advertisement on 25.11.2018, inviting applications for a retail outlet under the SC category at the specified location. As per this advertisement, the petitioner applied under Group-1. On 21.12.2018, the petitioner submitted his application form, supported by a caste certificate dated 22.11.2021, affirming his SC category status. The petitioner proposed a 1206.9 Sq. Meter land, leased from Devendra Singh, through a lease deed dated 11.12.2018. This land bearing Khasra No. 468 situated in Village-Kharihani, Tehsil-Mehnagar, Azamgarh, with 55 co-tenure holders, was partitioned. After submission of document, a draw of lots on 07.12.2019 declared the petitioner successful. Thereafter, an email on 09.10.2020 was issued to the petitioner requesting him to submit Pan Card copies and Appendix-IIIA from all co-owners. On 05.02.2021, he was directed to have all co-owners present during a Land Evaluation Committee (LEC) inspection on 15.02.2021, but the Committee did not appear on the said date. Thereafter, the petitioner sent the Appendix-IIIA via

registered post. On 12.08.2021, the land was found suitable and a suitability report by the Executive Engineer, PWD, Azamgarh, dated 13.09.2021, was issued. On 08.11.2021, field verification was done and petitioner submitted all requisite documents on the said date. After a year, through letter on 05.04.2023, petitioner was summoned to the corporation's office on 13.04.2023. Thereafter, the impugned order of 07.06.2023 was passed, rejecting the petitioner's claim on the grounds of incomplete Appendix-IIIA and missing documents during field verification.

4. Learned counsel for the petitioner has contended that by the order impugned dated 7.6.2023 the claim of the petitioner for establishment of a retail outlet was rejected firstly on the ground that Appendix-IIIA of all the co-owners have not been provided and secondly at the time of field verification required documents were not provided. The order impugned further directed that the petitioner is now placed under Group-III and his candidature under Group-I stands cancelled. Learned counsel for the petitioner, in this backdrop, has placed reliance on Clause (v) of the brochure of the HPCL appended as Annexure No.7 of the writ petition, which deals with Land (Applicable to all categories). He submits that the petitioner's case would fall in Group 1 of Clause (v) of the said brochure, which provides "applicants having suitable piece of land in the advertised location/ area either by way of ownership/ long term lease for a period of minimum 19 years 11 months or as advertised by the OMC." He submits that in response to the advertisement, the petitioner had also supplied all relevant papers. Even NOCs accorded by 54 incumbents, who are having stake in the holding is also appended as Annexure No.SA-1 to the supplementary affidavit dated 16.10.2023. Learned counsel for the petitioner, in this backdrop, further submits that the petitioner fulfills all the criteria in terms of Group-1 category as he has already submitted all the relevant papers and he is also having required NOCs. As such, it is requested that the authorities may be restrained not to proceed with the re-advertisement and meanwhile they may revisit the matter in the light of the NOCs accorded by the other stake holders in terms of Group-1 category.

5. Shri Komal Mehrotra, learned counsel for HPCL supports the impugned order.

6. Considering the facts and circumstances of the case, we are of the considered opinion that Appendix IIIA was necessary for family members and not for co-owners, and also that boundaries of the proposed land was very clear and there is no objection by any of the co-owners. Accordingly, matter is relegated to the respondents to take fresh decision in the matter of the petitioner.

7. With the aforesaid observations, the writ petition is disposed of

Order Date :- 29.11.2023

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