

Court No. - 40

Case :- WRIT - C No. - 36590 of 2023

Petitioner :- Smt. Neelu Jaiswal

Respondent :- Union Of India And 2 Others

Counsel for Petitioner :- Khurshed Alam

Counsel for Respondent :- A.S.G.I., Pramod Kumar Rai

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Ms. Nand Prabha Shukla, J.

1. Heard learned counsel for the petitioner and Sri Pramod Kumar Rai, learned counsel for the respondent-Corporation.

2. Petitioner is before this Court questioning the validity of the impugned order dated 09.08.2023 passed by the third respondent i.e. Divisional Retail Sale Head, Indian Oil Corporation Ltd. (hereinafter referred to as the "IOC") as well as the impugned notice/advertisement dated 28.06.2023, so far as it pertains to the location within 4 Kms from main gate of Samudayik Swasthya Kendra Lar towards Mehrauna on NH-227A Ram Janki Marg, District Deoria.

3. Sri Pramod Kumar Rai, learned counsel for the IOC has raised preliminary objection on two folds. Firstly, the IOC has already withdrawn/cancelled the earlier advertisement and invited fresh application in response to the new advertisement dated 28.6.2023 and the said issue is no more res integra as the coordinate Bench has already settled the matter vide an order dated 18.2.2020 passed in Misc. Bench No.4687 of 2020, ***Kanchan Singh vs. Indian Oil Corp. Ltd. Thru. Chairman and others.*** Secondly, merely on the basis of an advertisement and even selection without process of Letter of Intent and lease does not create any right in favour of the applicant. The writ petition is devoid of merit and is liable to be dismissed at the admission stage itself, otherwise the IOC would suffer loss and injury.

4. Once an objection is raised then we have occasion to have a glance of pleading, which is set up before us. The entire claim has been set up on the basis of earlier notification. Admittedly, the previous location had been withdrawn by the Indian Oil Corporation Limited in which the petitioner had set up his case. The challenge to the said effect would not help the petitioner, even though, the IOC does not disclose reason for the said withdrawal.

Nowhere the law contemplates to the respondent Corporation to the advertised location, which is later on withdrawn or cancelled by the Corporation and even the petitioner was selected and later on, the Corporation cancelled the location. The said issue is no more res integra in view of judgement in Kanchan Singh's case (supra). Relevant portion of the order dated 18.2.2020 passed in Kanchan Singh (supra) reads as under:-

"By this writ petition, a challenge is made to the order dated 13.01.2020 whereby respondent-Indian Oil Corporation Ltd. has withdrawn the location for which petitioner was selected. The challenge to withdrawal of location has been made on the ground that no reason has been assigned for it.

Learned counsel appearing for Indian Oil Corporation Ltd. submits that no reason is required to be given in terms of the advertisement where the company has reserved its right to withdraw/amend or make appropriate change, being a commercial venture.

We find that the advertised location for which petitioner was selected has been cancelled by the Indian Oil Corporation Ltd. and for which no reason is required to be assigned. In fact, right was not created in favour of petitioner because deed in pursuance to selection was not executed. Mere selection without process for issuance of a letter indent and a lease does not create any right.

In the light of the aforesaid, we do not find any ground to interfere in the impugned order.

Writ petition is accordingly dismissed.

Indian Oil Corporation Ltd. would however refund the fee to the petitioner within ten days from today."

5. In view of the aforesaid, we are of the considered opinion that the objection so raised by counsel for the IOC has force and the writ petition is liable to be dismissed on this ground alone.

6. Consequently, the writ petition stands **dismissed**.

Order Date :- 26.10.2023

A. Pandey