

Court No. - 40

Case :- WRIT - C No. - 38074 of 2023

Petitioner :- Ashok Kumar

Respondent :- Union Of India And 4 Others

Counsel for Petitioner :- Suresh Chandra Pandey, Saurabh Pandey

Counsel for Respondent :- A.S.G.I., Komal Mehrotra

Hon'ble Mahesh Chandra Tripathi, J.

Hon'ble Prashant Kumar, J.

1. Heard Shri Saurabh Pandey, learned counsel for the petitioner and Shri Komal Mehrotra, learned counsel for Bharat Petroleum Corporation Ltd. (BPCL). Office of Addl. Solicitor General of India has accepted notice on behalf of Union of India.

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

"I. Issue a writ, order or direction in the nature of certiorari quashing the advertisement dated 28.6.2023 for inviting application for Retail outlet dealership having location no.187 at "VILLAGE-GUDHNI, ON BILSI TO WAZIRGUNJ ROAD, DISTRICT BUDAUN" under the category of SC CC1 filed as Annexure-12.

II. Issue a writ, order or direction in the nature of mandamus directing the respondent authority to restore/ continue with the selection process from the point where it was arbitrarily stopped/ cancelled i.e. (FV) for the application no.154546689935280 and complete the same within a time bound manner as fixed by this Hon'ble Court.

III. Issue a writ, order or direction in the nature of mandamus directing the respondent authority to allot the Retail Outlet Dealership to the petitioner in pursuant to his application no.154546689935280 in a time bound manner as fixed by this Hon'ble Court."

3. In response to the previous order, learned counsel for BPCL has produced the letter dated 23.3.2021 sent by the Territory Manager (Retail), Bareilly to the petitioner by which the representation of the petitioner was rejected. The said letter is taken on record. It is contended that through the said letter, the petitioner has already been informed about the reasons for cancelling the earlier advertisement. On the basis of instructions as well as the aforesaid letter, this much is contended by learned counsel for BPCL that earlier an advertisement was issued for appointment of dealership for the retail outlet at location "Village-Gudhni, On Bilsa to Wazirgunj Road, District Budaun" on 25.11.2018. In response to the said advertisement, the petitioner applied in Group-3 category for the dealership selection vide application dated 22.12.2018. Subsequently, he offered the land in Gata No.848, Khata No.810, Village Gudhni, Pargana Kot, Distt. Bilsa. Since he was the only eligible candidate, he was asked to deposit initial security deposit

of Rs.30,000/- as well as the required documents. Pursuant thereto, the petitioner provided all the original documents and deposited the security deposit of Rs.30,000/- on 23.6.2019. While scrutinizing the land documents, it was found that Village Gudhi is never falling on Bilsa to Wazirgunj Road. As the said village is not falling on Bilsa to Wazirgunj Road stretch, it was not possible to proceed with the selection for the said location. It is contended that as per Clause 'xiv' of the General Conditions to the Advertisement Brochure on Selection of Dealership for Regular and Rural Retail Outlet, 2018, BPCL reserves the right to cancel/ withdraw/ amend the advertisement or extend the due date at its sole discretion without assigning any reasons. As such the aforesaid location was cancelled and the initial security deposit of Rs.30,000/- was also refunded vide demand draft dated 10.12.2020 and the same was also accepted and received by the petitioner on 22.2.2021.

4. Learned counsel for the Corporation has further contended that even the petitioner himself had moved an application to BPCL on 24.5.2021 requesting that since the cheque of Rs.30,000/- could not be received well in time, the same could not be encashed and as such fresh cheque for the said amount may be issued. Learned counsel for the BPCL informed that after cancelling the earlier advertisement, fresh advertisement for the site in question has already been issued. He has also contended that issue in hand is no more re-integra as the Coordinate Bench has already settled the matter by order dated 18.2.2020 passed in Misc. Bench No.4687 of 2020 (Kanchan Singh v. Indian Oil Corporation Ltd. through Chairman & Ors.). Similar view has also been taken by the Division Bench of this Court in Writ-C No.36660 of 2023 (Shrikant Saroj v. Hindustan Petroleum Corporation Ltd. & Anr.) dated 21.11.2023. As such it is submitted that the writ petition is liable to be dismissed.

5. Considering the facts and circumstances of the case, we are not inclined to interfere in the matter. Needless to say, for return of security deposit of Rs.30,000/-, if it is permissible, the petitioner may press his claim before the BPCL.

6. The writ petition stands **dismissed** accordingly.

Order Date :- 5.12.2023

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