

GAHC010200602024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/4968/2024

PRATAP SINHA
S/O- ARJUN SINHA, VILL- ONGC ROAD, UMANGAON, P.O. AND P.S.
PATHERKANDI, DIST- KARIMGANJ, ASSAM, PIN- 788724

VERSUS

THE INDIAN OIL CORPORATION LTD AND 2 ORS
REPRESENTED BY THE CHAIRMAN, INDIAN OIL BHAWAN, G-9, ALI YAVAR
JUNG MARG, BANDRA (EAST), MUMBAI- 400051

2:THE INDIAN OIL CORPORATION LIMITED
REPRESENTED BY THE EXECUTIVE DIRECTOR
AOD
INDIAN OIL BHAWAN
SECTOR-III
NEAR FLY OVER NOONMATI
GUWAHATI- 781020

3:THE DIVISIONAL RETAIL SALES HEAD
INDIAN OIL CORPORATION LIMITED
SILCHAR DIVISIONAL OFFICE
MOINARBAOND DEPOT
PS- UDHARBOND
P.O. GOSSAIPUR
DISTRICT- CACHAR
ASSAM
78803

Advocate for the Petitioner : MR. A K TALUKDAR, MR S ISLAM

Advocate for the Respondent : SC, I O C,

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

23.09.2024

Heard Mr. A.K. Talukdar, learned counsel for the petitioner, who submits that in response to an Advertisement dated 28.06.2023 issued by the Indian Oil Corporation Ltd. ('IOCL' in short), inviting applications for retail outlet dealership of petroleum at Patherkandi Bypass Road, Karimganj, the petitioner submitted an application by offering a plot of land, which was leased to him for 20 years by one Sri Lakshikant Sinha, S/o Late Mahendra Kr. Singha. In the draw of lots held on 12.12.2023, the petitioner was provisionally selected for the retail outlet dealership. The IOCL thereafter requested the petitioner to submit further documents with respect to the offered plot of land for the retail outlet.

2. The petitioner's counsel submits that in the meantime, the petitioner came to know that the District Commissioner, Karimganj had started the process of acquiring the petitioner's offered plot of land for setting up the retail outlet dealership and in that view of the matter, the petitioner had submitted an alternative plot of land for the retail outlet dealership in terms of Clause 2 of the "Industry Guidelines on Resitement of Retail Outlet Dealerships." The petitioner's counsel submits that in the meantime, the respondents had issued a letter dated 18.06.2024, informing him that his candidature for the retail outlet dealership was cancelled/rejected due to non submission of documents in respect of the earlier land offered by the petitioner.

3. The petitioner's counsel submits that when an alternative land has been

provided by the petitioner, as the earlier land was identified for acquisition by the Government, the IOCL has to consider the case of the petitioner afresh, in the draw of lots to be held on 24.09.2024.

4. Mr. M.K. Choudhury, learned Sr. Counsel appearing for the IOCL assisted by Mr. P. Bharadwaj submits that the question of considering the petitioner's alternative site does not arise, in terms of Clause 2 of the "Industry Guidelines on Resitement of Retail Outlet Dealerships", inasmuch as, the petitioner's earlier offered land did not meet the specifications required by the IOCL. He submits that the draw of lots is held on the basis of the information provided by the bidders in the online portal. Once a bidder is provisionally selected, the bidder is to provide the necessary documents in support of the uploaded documents. Though opportunity had been given to the petitioner to provide the documents and to upload corrected/rectified documents, the same was not done by the petitioner. As such, the question of application of Clause 2 and 2.1 of the "Industry Guidelines on Resitement of Retail Outlet Dealerships" is not applicable to the case of the petitioner. He further submits that though the petitioner has made a challenge to the letter dated 18.06.2024, whereby his candidature has been rejected by the IOCL, the same has not been annexed to the writ petition. The representation made by the petitioner against the rejection letter dated 18.06.2024 had been rejected by the IOCL vide letter dated 22.07.2024. However, the said letter dated 22.07.2024 has not been put to challenge by the petitioner.

5. I have heard the learned counsels for the parties.

6. As rightly pointed out by the learned Sr. Counsel for the respondent IOCL,

the petitioner has not annexed a copy of the letter dated 18.06.2024, by which the petitioner's candidature for the retail outlet dealership has been rejected. The petitioner had been given the option to challenge the letter dated 18.06.2024 within 10 days by way of a representation. The petitioner accordingly submitted a representation dated 28.06.2024. A perusal of the letter dated 22.07.2024 issued by the IOCL rejecting the representation made by the petitioner against the impugned letter dated 18.06.2024, shows that a reasoned order has been given by the IOCL for rejection of the petitioner's candidature. The letter dated 22.07.2024, which has rejected the petitioner's representation dated 28.06.2024, shows that the petitioner had not submitted documents in support of his uploaded documents. The rejection of the petitioner's representation dated 28.06.2024 against the impugned letter dated 18.06.2024 is reproduced hereinbelow, by quoting extracts of the letter dated 22.07.2024 as follows:-

“We have gone through your representation carefully and reverified your application and documents submitted in the portal. Based on the aforesaid your representation is not acceptable for the reasons given below: -

a) Vide your application no. IOC16930410900734, you have claimed land under Group- 1 category with ownership of Late Mahendra Kumar Singha.

b) Further based on the uploaded documents, land is in the name of Late Mahendra Kumar Singha whereas the registered lease is executed between Sri Pratap Singha and Shri Lakshikanta Singha S/o- Lt Mahendra Kr Singha. No legal heir certificate or next to kin certificate of Lt Mahendra Kr Singha was uploaded to ascertain rights over the property by Shri Lakshikanta Singha.

c) As claimed in notice dated 03.07.2024, records of offered land mutated in favour of Shri Lakshikanta Singha were not uploaded.

d) Opportunity was given to upload the correct/ rectified documents vide mail dated 17.01.2024 was provided to you for substantiating your claim to land applied in the application. However, you did not upload requisite documents for

the land as applied in the application. Surprisingly, additional documents pertaining to another property were uploaded.

e) As such, you offered an alternate land which was not mentioned by you in the application form.

f) As per extant guidelines, no change in Khasra number, Khatouni number, survey number etc. is permitted as offered in the application form is permitted

g) It may also be noted that there is no provision in the extant dealership brochure for providing alternate land for the impugned location.

h) It may also be noted that upon the e-mail dated 17.01.2024 you had time until 07.02.2024 to relevant documents in order to establish the title and ownership of Shri Lakshikanta Singha. Infact, you submitted the documents for alternate land before 07.02.2024 whereas, the notification for acquisition of offered land was published on 16.02.2024. It is clear, that you had not uploaded documents of the offered land on the basis of the notification, but as an excuse in order to justify the submission of an alternate land as you could not establish the ownership of Shri Lakshikanta Singha for the offered land. In fact, your candidature was rejected much later on 18.06.2024 and only upon your rejection, as an afterthought you informed the Corporation through the representation that the offered land has been earmarked for acquisition.

In view of the aforesaid, the application made for the subject location could not be considered and your representation dated 28.06.2024 is disposed of accordingly. The Corporation shall proceed further with the selection process for the aforesaid location."

7. Clause 2 and 2.1 of the "Industry Guidelines on Resitement of Retail Outlet Dealerships" states as follows:-

"2. RESITEMENT (CHANGE OF LOCATION) AT LOI/ PRE-LOI STAGE

Resitement (Change of location) at LOI/Pre-LOI stage shall be allowed in the following cases only:

2.1 There may be a situation, where the land offered by the applicant meets all the specifications as laid down in the advertisement and on the basis of which LOI has been issued or proposed to be issued and the LOI holder or the selected candidate to whom LOI is proposed to be issued would like to offer an

alternate land, due to whatsoever reason, such land may be considered by Corporation subject to the alternate land meeting all specifications and is within the advertised location/stretch. This opportunity would be available to the LOI holder up to 90 days from the issuance of LOI. The above mentioned opportunity can be availed by the selected candidate (after clearing FVC) / LOI holder only once.

In case the selected candidate (after clearing FVC) avails the opportunity to offer alternate land before issuance of LOI, the opportunity will not be available to the candidate post Issuance of LOI.

Opportunity to offer alternate land also will be available in case of failure of rental negotiation. However, in this case, LOI holder can offer alternate land within 90 days of failed negotiation. Further, this opportunity will not be available to the LOI holder in case he/she has availed the opportunity before issuance of LOI/post issuance of LOI.

8. A perusal of the above Clause 2 and 2.1 shows that where the land offered by the applicant meets all the specifications as laid down in the advertisement and on the basis of which LOI has been issued or proposed to be issued and the LOI holder or the selected candidate to whom LOI is proposed to be issued, would like to offer an alternate land, due to whatsoever reason, such land may be considered by the Corporation subject to the alternate land meeting all specifications and is within the advertised location/stretch. In the present case, the letter dated 22.07.2024 issued by the IOCL clearly shows that the land offered by the petitioner earlier did not meet all the specifications as laid down in the advertisement, as the petitioner could not give supporting documents in respect of the said offered land. As such, the question of the petitioner submitting an alternative site in terms of Clause 2.1 does not arise. Secondly, even if it is assumed that the petitioner was eligible to offer an alternative site, the acceptance of the same would be within the discretionary power of the IOCL, keeping in view that the same would have to meet all specifications of the

advertisement issued by the IOCL. It may also be noted that there was no decision made by the IOCL with regard to offering the LOI to the petitioner pursuant to the advertisement dated 28.06.2023.

9. On considering the fact that the petitioner's offer of an alternative land for the retail outlet dealership does not meet the requirements of Clause 2.1 of the "Industry Guidelines on Resitement of Retail Outlet Dealerships" and as there has been no challenge to the letter dated 22.07.2024, which is a reasoned order made by the IOCL, this Court does not find any ground to exercise its discretion in the present case.

10. The writ petition is accordingly dismissed.

JUDGE

Comparing Assistant