

GAHC010214012021



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

Case No. : WP(C)/1206/2022

GITA BALA MUSHAHARY
D/O- LATE MAHESWAR MUSHAHARY (FATHER) AND SMTI.
GONDHESWARI MUSHAHARY (MOTHER), R/O- VILL.- BETNAPARA, P.O.
BETNAPARA,P.S. BIJNI, DIST. CHIRANG,BTR, ASSAM-783393.

VERSUS

THE UNION OF INDIA AND 2 ORS
REP. BY THE SECRETARY, PETROLEUM AND NATURAL GAS, GOVT. OF
INDIA, SHASTRI BHAWAN, NEW DELHI-110001.

2:THE DEPUTY MANAGER RETAIL SALES
INDIAN OIL CORPORATION LTD.
BONGAIGAON
P.O. AND P.S. BONGAIGAON
ASSAM-783380.

3:THE CHIEF AREA MANAGER
INDANE AREA OFFICE
INDIAN OIL - AOD
EAST POINT TOWERS
THIRD FLOOR
BAMUNIMAIDAN
GUWAHATI
ASSAM-781020

Advocate for the Petitioner : MR. B RAMCHIARY

Advocate for the Respondent : ASSTT.S.G.I.

**BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI**

ORDER

19.04.2024.

The issue which has been raised in this petition filed under Article 226 of the Constitution of India is with regard to the allotment of LPG Distributorship.

2. The primary contention is that in spite of being duly selected, the petitioner has not been offered the allotment.

3. For the sake of convenience, a brief narration of the facts would be necessary.

4. An advertisement was issued on 12.06.2021 inviting applications from eligible candidates for appointment of LPG Distributorship and amongst the locations, against Sl. No. 25, the location of Deutari (Alu Khunda) pertaining to IOC was notified.

5. It is the case of the petitioner that being eligible in all respects, she had applied for the aforesaid location in the prescribed format online. In the selection process, the petitioner was found to be the most suitable and vide a communication dated 18.07.2018, the petitioner was directed to make the security deposit of Rs. 20,000/-. The aforesaid amount was deposited vide Demand Draft dated 21.07.2018 along with other testimonials. However, the Letter of Allotment has not been issued and therefore, this writ petition has been instituted.

6. I have heard Ms. T Ramchiary, learned counsel for the petitioner. I have also heard Shri MK Choudhury, learned Senior Counsel assisted by Shri M Sarma, learned counsel for the respondent nos. 2 and 3. Ms. S Baruah, learned CGC is also present.

7. Ms. Ramchiary, learned counsel for the petitioner has submitted that at no point of time, any objections were raised either with regard to the candidature of the petitioner or the location and therefore, there is no discernible reason for not allotting the distributorship to the petitioner. It is submitted that there was a fair competition amongst the eligible contenders in which the candidature of the petitioner was found to be the most suitable and accordingly, she was selected. She has also submitted that pursuant to the communication dated 18.07.2018, the security deposit was also made vide demand draft on 21.07.2018 which is not disputed.

8. *Per contra*, Shri Choudhury, learned Senior Counsel by referring to the affidavit-in-opposition filed on 19.07.2022 has submitted that the refusal to grant the allotment is based on cogent reasons. By drawing the attention of this Court to the notice for allotment, the learned Senior Counsel has submitted that though the advertised location was given as Deutari (Alu Khunda), there was some error in mentioning the Sub-Division which was stated to be Manikpur and the actual Sub-Division should have been Bijni. By referring to the decision taken, as would appear from the Note of Approval of the IOC dated 20.02.2019, the learned Senior Counsel has submitted that a decision was taken to cancel the advertisement for the aforesaid location on the ground that the residents of the locality were deprived of a fair and equal opportunity for applying for the

subject DKV location. Shri Choudhury, learned Senior Counsel, accordingly submits that the reasons assigned towards the cancellation of the location and to go for re-advertisement being a plausible and cogent reason, this Court may not go for further analysis of the same. The learned Senior Counsel has also informed this Court that a decision has been taken that as a consequence of the cancellation process, the security amount deposited by all the applicants would be refunded.

9. Ms. Ramchiary, learned counsel for the petitioner, in her rejoinder has submitted that the grounds which have been brought to the record by way of the affidavit-in-opposition are not reasonable at all. It is submitted that the so-called error is not with the location but in describing the Sub-Division as Manikpur which should have been Bijni and the same would not have any relevance in the selection process. It is further submitted that the decision to cancel the aforesaid location and to go for re-advertisement would not only incur additional expenditure but would also deprive the petitioner of her right for a fair consideration.

10. At this stage, Shri Choudhury, learned Senior Counsel for the respondent nos. 2 and 3, however, fairly submits that for the location in question, there were about 22 applications.

11. The rival submissions have been considered and the materials available before this Court have also been carefully examined.

12. There is no manner of doubt or any dispute that in matters relating to

distribution of State largesse, a fair and transparent method is to be adopted. In the instant case, LPG Distributorship was to be allotted in as many as 66 locations in the different districts of Assam and the particular location is Deutari (Alu Khunda) which is in the district of Chirang. There is no dispute in the Bar with regard to the location which is Deutari (Alu Khunda) or the category of applicants who would apply for the same. It is also not disputed that the aforesaid location is in the district of Chirang in Manikpur Block. The only cause which has been sought to be shown is that the Sub-Division has been written as Manikpur instead of Bijni. In the considered opinion of this Court, the aforesaid factor would not be a relevant consideration at all to support the impugned decision to decline LPG Distributorship to the petitioner. It would also not be justified at all to cancel the advertisement so far as the said location is concerned and to go for a fresh allotment process. The additional fact that about 22 applicants had applied for the said location, as fairly informed by the learned Senior Counsel for the respondent nos. 2 and 3, would also be a relevant factor to come to a conclusion that there has been a fair and reasonable participation in which the aspect of competition was there.

13. In view of the aforesaid facts and circumstances and the discussions, this Court is of the opinion that a case for interference is made out.

14. Accordingly, the writ petition is allowed by directing the respondent authorities, more particularly, the respondent nos. 2 and 3 to complete the formalities of allotment of the LPG Distributorship with the petitioner for the aforesaid location of Deutari (Alu Khunda). The further decision which has been brought to record to cancel the allotment process for the aforesaid location and

to go for re-advertisement is also interfered with.

15. The aforesaid process of allotting the LPG Distributorship to the petitioner for the aforesaid location of Deutari (Alu Khunda) in the district of Chirang be completed expeditiously and in any case, within a period of 60 days from today.

16. The petitioner would submit all necessary documents which may be required for completion of the process.

17. The writ petition is accordingly disposed of.

JUDGE

Comparing Assistant