

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20941 of 2014

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Om Prakash Mahto s/o Mohan Mahto, resident of Village/Mohallah-Sri Rampur, P.S. Kathaiya, Distrit Muzaffarpur.

... Petitioner/s

Versus

- 1.The Union of India through the Secretray, Ministiry of Petroleum and Natural Gas, Govt. of India shashtri Bhawan, New Delhi-110001.
- 2.The Additional Secretary (Marketing), Ministry of Petroleum and Natural Gas, Govt of India Shastri Bhawan, Govt of India, New Delhi-110001.
- 3.The Executive Director, Indian Oil Corporation Ltd. G-9 Ali Yavar Jung Marg, Bandr (East), Mumbai-400051(India.).
- 4.The Chairman cum Managing Direcor, Indian Oil Corporation Ltd. G-9 Ali Yavar Jung Marg, Bandra (East), Mumbai-400051(India).
- 5.The General Manager (LPG) BSO, Indian Oil Corporation Ltd. Bihar State Office, Lok Nayak Jai Prakash Bhawan-5th floor Dak Bunglow chowk, Frazer Road, Patna-800001.
- 6.The Dy. General Manager, (LPG), Indian Oil Corporation Ltd. Bihar State Office, Lok Nayak Jai Prakash Bhawan-5th floor Dak Bunglow chowk, Frazer Road, Patna-800001.
- 7.The Chief Area Manager, Patna Area Office, LPG, IOCL., Lok Nayak Jai Prakash Bhawan 5th Floor Bunglow chowk, Frazer Road, Patna-800001.
- 8.The C.L.M. (O) BSO Patna Area Officer LPG, IOCL, Lok Nayak Jai Prakash Bhawan 5th Floor Dak Bunglow chowk, Frazer Road, Patna-800001.
- 9.The Dy. Area Manager, IOCL, First Floor Shahi Bhawan, Exhibition Road Patna-800001.
- 10.R.P. Dhananjay Verma w/o Jananjay Verma, resident of Village/Mohalla-Mathurapur, Post Bara Chakia, P.S. Chakiaya, District East Champaran.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. T.N. Maitin, Sr. Adv with Mr. Krishna Deo Raj, Adv.

For the I.O.C : Mr. Anil Kumar Jha, Sr. Adv with Mr. Sanat Kumar Mishra, Adv

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

3 16-01-2015 Heard learned counsel for the parties.

The prayer of the petitioner in this writ
application reads as follows:-

“For issuance of a writ in the Appropriate nature for quashing of letter dated 01.02.2014 (Annexure-1, series), whereby and where under the letter issued under the

signature of the chief Area Manager, Patna Area Office Respondent No. 7 whereby the candidature of the petitioner for award of LPG. Distributorship for the location "CHAKIA" has been cancelled on the ground the deed of lease offered by the petitioner for construction of showroom is not by the land owner without considering that the father of the lessor was one of the co-sharee.

For further quashing of the letter dated 30.09.2014 (Annexure-1 series) issued by under the signature of the Dy. General Manager (LPG) BSO Indian Oil Corporation Limited whereby after refield verification without considering the documents i.e. Jamabandi, Rent Receipt, deed of lease and deed of Mutual partition dated 11.07.1971, NOC. By the others co-sharers dated 21.06.2012 has again affirm the order dated 01.02.2014 and rejected the candidature of the petitioner.

For further quashing of letter dated 01.02.2014 (Annexure-1 series) issued under the signature of the Chief Area Manager (LPG) IOCL whereby one hand cancelling the candidature of the petitioner and other hand held draw and selected private respondent no. 10 for award of LPG. Distributorship for the same location-Chakia, under the District of East champaran for which the petitioner was selected.

For further direction of the respondent authorities to reconsidered the candidature of the petitioner as the petitioner was selected by draw and have requisite documents dully executed by lessor of deed of registered lease dated 06.06.2012 by the sole son or recorded tenant having order of mutation, Rent receipt, LPC., in his favour of lessor."

Mr. T.N. Maitin, learned counsel appearing on behalf of the petitioner in support of the aforementioned prayer has basically concentrated on the aspect that the impugned order passed by the authorities of the Indian Oil Corporation on 30.09.2014, was factually incorrect and legally impermissible for a simple reason that the petitioner had offered valid piece of land for which he



had lease from the owner of the land namely, Ram Yatan Mahato. He has further submitted that there was also supporting documents including the affidavit by the co-sharers of Ramyatan Mahato agreeing to the execute lease by him in favour of the petitioner. He would, accordingly, submit that non suiting the petitioner on the ground of non availability of land for the purposes of showroom of gas agency to be awarded by the Indian Oil Corporation is contrary to the provisions made in the advertisement/brochure issued for the purpose.

In this case, a counter affidavit has been filed by the authorities of the Indian Oil Corporation who have stuck to their old stand as has been also specifically explained in the impugned order. Mr. Anil Kumar Jha, learned Senior counsel appearing on behalf of the Indian Oil Corporation in fact has also questioned the maintainability of the writ application on the ground that the petitioner's earlier writ application as with regard to rejection of his candidature for grant of L.P.G. dealership for the same selection process under the same



advertisement, had been dismissed as withdrawn in which no liberty was given to the petitioner to file a fresh writ application for the same cause of action. He has further submitted that in any event the requirement of having land for the purposes of showroom by the petitioner was not fulfilled, inasmuch as, had Ramyatan Mahato who has executed lease in favour of the petitioner was not the exclusive owner of the plot in question and that in fact even the name of Ramyatan Mahato was not borne out from the revenue records of the State of Bihar.

Mr. Maitin in reply has submitted that the earlier writ application having been filed against order dated 01.12.2014, if the same was not pressed and was withdrawn whereafter the petitioner had filed a fresh representation to the authorities of the Indian Oil Corporation which on inquiry was rejected by the order dated 30.09.2014, the same could be very well challenged by filing fresh writ petition, inasmuch as, the relief sought in the earlier writ application therefore was

not the same as in the present case.

Technically speaking the writ application could not have been filed by the petitioner because on the same ground the respondents had rejected the claim of the petitioner by an order dated 01.02.2014, wherein, the following reason was given for the rejection of the claim of the petitioner for award of L.P.G. dealership:-

*“To,
Sri Om Prakash Mahato, s/o Sri Mohan Mahato
Vill Srirampur
PO Sirsiya Jagdish
PS Kathaiya
Dist-Muzaffarpur
Bihar 843127*

*Subject: Application for award of LPG
Distributorship at: Chakia, Dist: East Champaran,
Under: OP category, Advertised on: 18.05.2012.*

Dear Sir,

Please refer to your application sl. No: PAT/146/45 on the subject for which draw was held at Patna Area Office on 24.08.2013. You were the selected candidate after draw.

But, we regret to inform you that your candidature has been cancelled due to finding during FVC as:

1. Does not have land for construction of LPG showroom as on date of application (Offered land for construction of LPG showroom in form of registered lease deed is not a valid offer, because lease deed was executed by Sri Ramayan Mahato but the land was actually owned by Sri Banrasi Mahato. Hence lease executed to you is not a valid agreement for this location).

Thanking You

Yours faithfully

For Indian Oil Corporation Ltd. (MD)

(Arun Prasad)

Chief Area Manager

Indane Area Office, Patna.”



As a matter of fact when the aforementioned order was assailed by the petitioner in C.W.J.C No. 3879 of 2014 and the same was sought to be withdrawn by order dated 22.04.2014 without seeking any liberty from this Court for filing of fresh representation or moving this Court again for the same cause of action for the grant of L.P.G. dealership, the petitioner could not have maintained the present writ petition.

Nonetheless, since there is a fresh order giving more reasons in support of the earlier ground on which order dated 01.02.2014, had been passed, this Court has heard learned counsel for the parties even on merit. Let it be noted that the requirement of land for the purposes of grant of regular L.P.G. dealership was clearly defined in the brochure which was made part of the application as prescribed in the advertisement. This Court therefore will have to examine the reasons rejecting the candidature of the petitioner in the light of the aforementioned requirement of land.

It is an admitted position that the petitioner for



fulfillment of the aforementioned requirement has produced a lease deed dated 06.06.2012 executed by one Ramyatan Mahato in favour of the petitioner. Column No. 5 thereof had gone to show that Ramyatan Mahato had got 1/2 decimal of land in question in family partition and was in possession thereof. Thus, the revenue record on the date of 06.06.2012, had to necessarily support this aspect of the petitioner being exclusive owner by way of mutation of name of the Ramyatan Mahato in that date in order to make the lease deed valid. It is here that the petitioner cannot prove his case because the last date of filing of the application on which the prescribed criteria was to be fulfilled by the petitioner was 29.06.2012, but admittedly on that date name of Ramyatan Mahato, was not entered into the revenue records. Thus, any subsequent document being now relied by the petitioner to show that Ramyatan Mahato was co-sharer and his family had also agreed to execute the lease which would make the leased deed of Ramyatan Mahato valid will be of no avail in view of

the specific definition of the word 'own' in the Brochure.

It is this aspect of the matter which has been gone into in the impugned order passed by the Indian Oil Corporation dated 30.09.2014, which for the sake of clarity and convenience is quoted hereinbelow:-

*"To
Sri Om Prakash Mahto,
s/o Mohan Mahto
Vill-Sri Rampur
P.S. Kathaiya, Dist-Muzaffarpur
Bihar.*

Sir,

Sub: Your Representation dated 04/6/2014, 18.06.2014 and 23.06.2014 against the cancellation of your candidature for LPG Distributorship at chakia, East Champaran.

This is with respect to your representation as referred above against cancellation of your candidature for the LPG distributorship at Chakia, E. Champaran. Also kindly refer your letter dated 07.3.2014 addressed to Dy. General Manager (LPG) BSO requesting for personal Hearing on the matter.

Your grievances have been heard on 18.6.2014 by DGM(LPG), BSO in his office. Your candidature for the subject location was canceled vide Patna Area Office letter ref: PAT/LPG/NEW/OP/146/45 dated 01.2.2014 on the ground that you do not have a land for showroom in advertised location. Your offered lease for land for showroom was executed by Ramyatan Mahto who was not the owner of the said land at the time of execution of lease.

You have raised the following points in your above referred representations:

1) As per record of Nagar Panchayat Chakia, the offered space for showroom built on the land (Khata-228, Plot No. 920) is in the name of Sri Ramyatan Mahto. Tax token receipt no. 7510 of Nagar Panchayat is also in the name of Sri Ramyatan Mahto.

2) As per Khanagi Batwara dated 11.7.1971, the father of the lessor late Sri Sheoparsi Mahto has been

allocated 1.12. Kattha of land and the lessor being the sole child of his deceased father has all right to sale or lease that portion of land.

3) Area office has not taken any legal opinion on the subject issue as is being taken in other case in Sheikhpura, Patna.

4) Alleged malpractice, as the day the candidate is issued cancellation letter, on the same day letters for remaining eligible candidates were issued for re-draw of the location.

All the documents submitted with your representation as referred above has been examined and our reply on the above points raised in your representations are as:

1) As per Register II, the ownership of the land for showroom (Khata-228, plot-920) is jointly in the name of Anarsi Mahto, Banarsi Mahto and Sheoparsi Mahto.

2) As explained above the land is jointly owned by the three uncles of lessor Ramyatan mahto. Execution of lease of subject land co-owned by three uncles of lessor without NOC from all co-owners can not be considered a valid lease.

3) As per our internal procedure all the files of LOI and cancellation is routed through our Law deptt and their opinions are recorded in the approval note.

4) The letter for cancellation of candidature and letter for re-draw of the same location can be issued on the same day. As per policy, there is no provision to maintain time gap between the two activities.

In view of above and the established fact that ownership of the land bearing khata no. 228 and khesra no. 920 offered for showroom is in the joint name of Banarasi Mahto, Anarsi Mahto and Siparsi Mahto as per the Register II and Sri Ramyatan mahto was not the owner of the offered land at the time of execution of lease.

So, the cancellation of your candidature stands and accordingly your complain/representation is disposed off.

This letter is issued without any prejudice to your rights and other contentions of the Corporation in the matter.

Thanking You

Yours Faithfully

For Indian Oil Corpn. Ltd.

(A.K. Gupta)

Dy. G.M. (LPG), BSO

As would be noted each and every submission



made by Mr. Maitin before this Court has been taken note of in the impugned order, wherein, it has been held that the land actually belonged to the three uncles of Ramyatan Mahato on the date of execution of the lease deed. It is those three uncles who were actually the owners in the revenue records. The only additional submission of Mr. Maitin that for holding no. 1468, a rent receipt was already issued in the name of Ramyatan Mahato even before the execution of lease deed will also be of no avail because the rent receipt does not create any right much less title. There is infact nothing on record to show that in the record of nagar panchayat the name of Ramyatan Mahato was already recorded by way of owner of the holding in question. As a matter of fact, all these aspects relating to title of Ramyatan Mahato will not have much of the bearing in course of consideration by the authorities of the Indian Oil Corporation who have to only satisfy as with regard to the correctness of the lease deed by way of ownership of land in question being offered by applicant including the

petitioner for the purposes of showroom or godown.

It is not that someone is questioning the right, title and interest of the petitioner or the lease holder in civil proceeding rather when a norm has been laid down applicable to all the candidates, the Indian Oil Corporation only had to examine the same in the backdrop of uniform criteria. If this criteria has been adopted universally by the Indian Oil Corporation in all cases, no exception could have been made by them in the case of the petitioner.

Thus for the reasons indicated above, this writ application must fail and is, accordingly, dismissed.

(Mihir Kumar Jha, J)

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