

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4551 of 2010

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Sujata Prasad @ Sujata W/O Surendra Prasad Sony R/O at, P.S. & P.O.-
Kauwakol, Distt.- Nawadah

.... Petitioner/s

Versus

1. M/S Bharat Petroleum Corporation Ltd. a Company Under the Companies Act, 1956 having its Registered Office At Bharat Bhawan, 4 To 6 Currimbhoy Road, Balloud Estate, P.B. No.- 688, Mumbai- 400001 though its Chairman
2. The Regional Sales Manager, Bharat Petroleum Corporation Ltd. 3rd Floor, Ashiana Chambers, Exhibition Road, Patna- 800001
3. The Area Marketing Manager, Bharat Petroleum Corporation Ltd. 3rd Floor Ashiana Chambers, Exhibition Road, Patna- 800001
4. Smt. Rajni Kumari W/O Shailesh Kumar Vill.- Kauwakol, P.S. & P.O.- Kauwakol, Distt.- Nawadah

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.Jitendra Singh, Sr. Advocate
Mr. Mrigank Mauli, Advocate

For the Respondent Nos. 1 to 3 : Mr. Sanjay Singh, Advocate

For the Respondent No. 4 : Mr.Siya Ram Shahi, Advocate

Mr. Gopal Bohra, Advocate

Mr. Sunil Kumar Sharma, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

5 07-04-2015

Heard the parties.

2. The matter at issue is award of retail outlet dealership of the respondent Bharat Petroleum Corporation Limited (in short, "BPCL") at the location Kauwakol in the district of Nawada ear-marked for open (women) pursuant to the advertisement dated 12th July, 2009 as contained in Annexure- 1 to the writ petition.

3. Learned senior counsel appearing on behalf of the petitioner submits that in response to the aforesaid advertisement as contained in Annexure-1, the petitioner as also the respondent no.4, besides other eligible candidates, submitted their applications for award of the retail outlet dealership for the



location in question. Subsequently all the eligible candidates were interviewed and finally a panel (Annexure-5) was prepared by the authorities of the respondent BPCL. Annexure-5 to the writ petition shows the marks allotted to each candidate with respect to different items/qualifications. As per Annexure-5, the respondent no.4 was allotted 92.53 marks whereas the petitioner was allotted 76.58 marks and accordingly the respondent no.4 was empanelled as first candidate and the present petitioner was empanelled as second candidate. The grievance of the petitioner is that the marks allotted to the candidates including the petitioner as also the respondent no.4 was not in accordance with the specification prescribed by the respondent BPCL and that is required to be modified/recalculated.

4. Learned counsel appearing on behalf of the respondent BPCL and its functionaries as also the learned counsel appearing on behalf of the respondent no.4 have opposed the prayer and have tried to support the empanelment of the candidates in order of their merits.

5. The petitioner as also the respondents have filed their affidavit/counter affidavits in support of their respective claims.

6. After having heard the learned counsel for the parties at great length and in view of the unanimity of the parties particularly in the background that despite preparation of panel way back in the year 2009 letter of intent has not been issued by the respondent BPCL and the dealership has not been commissioned till date, as also in order to expedite the commissioning of the retail outlet dealership at the location in question, the matter is remitted back to the respondent no.3 for



reconsideration and a fresh decision. However, this Court refrains from making any observation with respect to the claim of the petitioner vis-à-vis the respondent no.4 regarding marks allotted to them on account of lands offered by them for award of retail outlet dealership, so that their cases are not adversely affected while the matter is reconsidered by the respondent no.3. It is to be noted that the learned counsel appearing on behalf of the parties in the factual matrixes of the cases have also agreed that the matter may be relegated to the respondent no.3 for re-considering the claim of the petitioner vis-à-vis the respondent no.4 only with respect to the marks allotted to them for allotment of retail outlet dealership. It is clarified that since other candidates have chosen not to assail the validity and correctness of the panel, therefore, their cases are not required to be re-considered.

7. In above view of the matter, the petitioner as also the respondent no.4 are hereby directed to appear before the respondent no.3 within a period of four weeks from today with a certified copy of the present order as also with all documents in support of their respective claims for allotment of marks to them for preparation of fresh panel only with respect to the petitioner and the respondent no.4. The respondent no.3 shall be obliged to take into consideration the materials produced by the petitioner as also the respondent no.4, and shall decide who shall be at serial No.1 and who shall be at serial No.2 of the panel. After preparation of such panel, the respondent BPCL shall proceed further for issuance of letter of intent in favour of successful candidate. It is directed that fresh decision by the respondent no.3 and/or any other competent authority of the respondent BPCL shall be taken at an early date preferably within a period of two months from the

date of appearance of the petitioner as also the respondent no.4 before the respondent no.3. If the respondent no.3 and/or any other competent authority of the respondent BPCL comes to a conclusion that for just decision regarding claim of the petitioner vis- a-vis the respondent no.4 with respect to the lands offered by them and for allotment of Marks to them for the lands, some report is required to be called for from some competent authority of the State of Bihar, then they shall be free to do that.

8. The writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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