

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20061 of 2010

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Anil Kumar Gupta S/O Late Gopal Prasad, R/O Village at Durgawati, P.O.& P.S. Durgawati, District- Kaimur at Bhabua

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Petroleum and Natural Gas, Government of India, New Delhi
2. The Chairman/ Managing Director, Indian Oil Corporation Limited, Registered Office- G-9, Ali Yavar Jung Marg, Bandra (East) Mumbai- 500051
3. The Incharge/ Head, Indian Oil Corporation, Bihar State Office:- Lok Nayak Jai Prakash Bhawan, 5th Floor, Dakbungalow Chowk, Patna- 800001.
4. The Senior Area Manager, Indane Area Office (Marketing Division Eastern Region), Indane Oil Corporation Limited, Shahi Bhawan, 1st Floor, Exhibition Road, Patna- 800001.
5. The District Magistrate, Kaimur at Bihar.
6. The Circle Officer, Durgawati, Kaimur at Bhabua.

with

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Civil Writ Jurisdiction Case No. 20426 of 2012

With

Interlocutory Application No. 470 of 2013

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Anil Kumar Gupta S/O Late Gopal Prasad, R/O Village + P.O.- Durgawati, District- Kaimur

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Petroleum and Natural Gas, Government of India, New Delhi
2. The Indian Oil Corporation Ltd. through its Chairman Cum Managing Director, Registered Office- G-9, Ali Yavar Jung Marg, Bandra (East) Mumbai- 400051 (India)
3. The Director (Marketing) Indian Oil Corporation, Registered Office-G.9 Ali Yavar Jung Marg, Bandra (East) Mumbai- 400051 (India)
4. The General Manager, Indian Oil Corporation Ltd. State Office, Lok Nayak Jai Prakash Bhawan, 5th Floor, Dak Bungalow Chowk, P.S.- Kotwali, District- Patna
5. The Regional Manager, Indian Oil Corporation Ltd. State Office, Lok Nayak Jaiprakash Bhawan, 5th Floor, Dak Bungalow Chowk, P.S.- Kotwali, District- Patna
6. The Senior Area Manager, Registered Office-Indane Area Office, Indian Oil Corporation Ltd. Shahi Bhawan Ist Floor, Exhibition Road, Patna
7. Santosh Kumar Pal, son of Sri Hari Shankar Pal, R/O Village + P.O. + P.S. Durgawati District Kaimur

.... Respondent/s

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Appearance :

(In CWJC No. 20061 of 2010)

For the Petitioner/s : Dr. Kishlay

For the Respondent No.1 : Mrs. Kanak Verma
For the Respondent No. 2 to 4: Mr. Anil Kumar Sinha
Mr. Amlesh Kumar Verma
Mr. Ankit Katrian
For the Respondent No. 5 & 6: Mr. Kumar Alok, SC-8
Mr. Rikesh Sinha, AC to SC-8

(In CWJC No. 20426 of 2012)

For the Petitioner/s : Ramanuj Tiwary
For the Respondent No.1 : Mrs. Kanak Verma
For the Respondent No. 2 to 6: Mr. Anil Kumar Sinha
Mr. Amlesh Kumar Verma
Mr. Ankit Katrian

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL JUDGMENT
Date: 13-05-2015

The petitioner of the above two writ petitions is the same and common person and the issue raised by him in both the writ petitions are inter-dependent. Therefore, on the request of the learned counsel appearing on behalf of the parties, both the writ petitions have been heard together and are being disposed of by this common judgment.

2. The matter at issue is the award of Rajiv Gandhi Gramin LPG distributorship (RGGLV) of the respondent Indian Oil Corporation Limited at Durgawati in the district of Kaimuar under open category.

3. The petitioner has filed C.W.J.C. No. 20061 of 2010 assailing the validity and correctness of the Order/ communication dated 03.11.2010 (Annexure-5) issued under the signature of the respondent no. 4, whereby the candidature of the petitioner for award of distributorship in question at location Durgawati on the basis of advertisement dated 17.10.2009 (Annexure-1) has been cancelled.

4. It is not in dispute that a common advertisement dated 17.10.2009 (Annexure-1) was issued by Bharat Petroleum Corporation Limited (BPCL), Hindustan Petroleum Corporation Limited (HPCL) and the Indian Oil Corporation Limited (IOCL)



inviting applications from eligible candidates for award of Rajiv Gandhi Gramin LPG distributorship at different locations in the State of Bihar mentioned in that advertisement under Rajiv Gandhi Gramin (Rural) LPG Distributorship scheme. At serial No. 183, location advertised was Durgawati in the district of Kaimur (Bhabua) under Open category and it was allocated to the respondent Indian Oil Corporation Ltd. At clause-3 of the advertisement, eligibility criteria for the candidates were indicated. As per Clause-3(kha) of the advertisement, the candidate was required to be resident of advertised location situate either in the town or village. As per clause-3 (chha), all the candidates were required to have suitable land at the advertised location for godown/ show-room. The land offered for construction of godown was required to have approachable road by vehicle during all seasons. Besides that, other eligibility criteria were also indicated there in that advertisement, which are not relevant for the purposes of disposal of these two writ petitions.

5. It is also not in dispute that the petitioner, besides other candidates, submitted his application for award of LPG distributorship at the location Durgawati. The selection of the candidate for award of distributorship in question was required to be made by a draw (lottery) of all the applicants. It is admitted case of the parties that the draw of the eligible candidates was held on 22.05.2010 and the petitioner was declared successful. However, subsequently, as per the policy of the respondent Indian Oil Corporation Ltd. field verification of the draw winner i.e. the petitioner was carried out by the two nominated officials of the respondent Corporation, whereafter it was found that the petitioner is not the resident of the advertised location i.e. Durgawati, rather he is a resident of Village Dahla under Durgawati block. It was further found



that the land offered by the petitioner for godown and show-room was not located at Durgawati, rather it was situate at village Dahla, and was not suitable for the go-down/ show-room as there was no approachable road. In view of the aforesaid defects pointed out in the field verification report, the candidature of the petitioner was cancelled by the impugned communication/ order dated 03.11.2010 (Annexure-5).

6. Learned counsel appearing on behalf of the petitioner submits that the advertised location- Durgawati is neither a village nor a town, rather it is a block headquarter in the district of Kaimur (Bhabua). According to him, the revenue village is Dahla, therefore, the respondent no. 4 was not justified in cancelling the candidature of the petitioner. It is contended that once the petitioner was held to be winner of the draw (lottery) conducted on 22.5.2010, the respondents ought not to have cancelled his candidature for award of LPG distributorship for the advertised location at Durgawati.

7. The matter has been contested by the respondents by filing a counter-affidavit on behalf of the respondent no. 3 and 4. In paragraph-6 of the counter-affidavit it has been asserted that the petitioner is not the resident of advertised location, rather he is the resident of village Dahla which is under Durgawati block. It has further been asserted that during the field verification of the credentials of draw winner i.e. the petitioner for award of distributorship in question, it was found that the land offered by him was not suitable for LPG godown. It was further found that the land offered by the petitioner is situate at village Dahla, which is not connected by any public/ private road to enable the truck carrying the LPG cylinders to reach at the land offered by him. The respondents have also brought on record the order dated 31.10.2010/ 2.11.2010



(Annexure-R/4 to the counter-affidavit filed on behalf of the respondent no. 3 & 4), wherein it was recommended to re-advertise the location in question in view of certain defects in the previous advertisement dated 17.10.2009 (Annexure-1). According to the respondents also, Durgawati is not a revenue village, rather it is a block. Hence, the proposal/ order made on 31.10.2010 for re-advertisement of the subject location as per the policy of the respondent Corporation was approved by the General Manager on 02.11.2010. It is further pleaded in the aforesaid counter-affidavit that in view of the decision taken by the respondent Corporation vide Annexure-R/4, the location in question has been re-advertised on 26.02.2012 as 'Durgawati- Masaurah' as cluster of villages by including Masaurah.

8. In view of the aforesaid re-advertisement of the location in question, the petitioner has filed fresh writ petition vide C.W.J.C No. 20426 of 2012 with a prayer that the fresh advertisement dated 26.02.2012 (Annexure-4) be set aside and the respondents may be directed to award the LPG distributorship to the petitioner on the basis of earlier selection process in the light of earlier advertisement dated 17.10.2009 (Annexure-1).

9. Indisputably, the petitioner has not submitted his application in response to the fresh advertisement dated 26.02.2012 (Annexure-4) for award of L.P.G. distributorship. However, other candidates submitted their applications and after following the procedure, respondent no.7 was the winner of the draw and, therefore, he was held to be entitled for award of LPG distributorship for the fresh advertised location on the basis of fresh advertisement dated 26.02.2012 (Annexure-4).

10. After having heard the parties and on consideration



of the materials available on record, this Court is of the considered opinion that the challenge made by the petitioner either in first writ petition vide C.W.J.C. No. 20061 of 2010 or in subsequent writ petition vide C.W.J.C. No. 20426 of 2012 is fit to be negated. In the earlier writ petition, the candidature of the petitioner has been cancelled by the impugned communication/ order dated 03.11.2010 (Annexure-5) on the ground that he is not the resident of advertised location and he has not offered the suitable land for construction of godown at the advertised location. Furthermore, decision has been taken by the respondents to cancel the previous advertisement dated 17.10.2009 (Annexure-1) so for it relates to location- Durgawati, District Kaimur, on the ground that there are certain inherent defects in the location advertised at Durgawati. It is the common case of the parties that Durgawati is not a revenue village and the petitioner is not the resident of Durgawati, rather he is the resident of village Dahla. The recommendation made for cancellation of previous advertisement and for re-advertising the location in question as per policy of the respondent Corporation was approved at the highest level, but that order dated 31.10.2010/ 02.11.2010 (Annexure-R/4 to the counter-affidavit) has not been challenged by the petitioner. Furthermore, assertions made in the aforesaid counter-affidavit by the respondents have not been controverted by the petitioner by filing any rejoinder affidavit.

11. It is well settled that selection of a location for LPG distributorship is well within the domain of the respondent Corporation, as while awarding the LPG distributorship, there is an element of business interest. Hence, it must be left within the domain of the respondent Corporation. Unless and until the action(s) of the Corporation are held to be wholly arbitrary, discriminatory or



malafide, the decision taken in such matters are not required to be interfered with in exercise of powers of judicial review under Article 226 of the Constitution of India. The learned counsel for the petitioner has completely failed to demonstrate that the impugned action of the respondent Corporation in cancelling the candidature of the petitioner and re-advertising the location are either arbitrary or discriminatory or such decisions are malafide either in law or on fact. That being the position, this Court does not find any good ground to interfere with the impugned communication/ order dated 03.11.2010 (Annexure-5) issued by the respondent no.4 cancelling the candidature of the writ petitioner. Since the decision taken by the respondent Corporation for re-advertising the location in question has not been held to be arbitrary, discriminatory or violative of any rule or the provisions of the advertisement or the brochure of the Corporation, therefore, the impugned fresh advertisement dated 22.06.2012 (Annexure-4 of C.W.J.C. No. 20426 of 2012) cannot be nullified at this stage when selection process is almost complete.

12. For the reasons recorded above, C.W.J.C. No. 20061 of 2010 as also C.W.J.C. No. 20426 of 2012 have to fail and are, accordingly, dismissed, but there shall be no order as to costs.

13. I.A. No. 470 of 2013 is also, accordingly, disposed of. Interim order dated 15.3.2013 passed in C.W.J.C. No. 20426 of 2012 by a Bench of this Court stands vacated.

(Birendra Prasad Verma, J)

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