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IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1246 of 2014
IN
Civil Writ Jurisdiction Case No. 8727 of 2014

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1. Zullfikar Alee Son of Late Hasan Imam resident of village - Manjhagarh (Sheikh Toli), P.O. AND P.S. Majhagarh, District - Gopalganj.

.... Appellant

Versus

1. The Union of India through its Secretary, Ministry of Petroleum, New Delhi.
2. Indian Oil Corporation Ltd. through Deputy General Manager (LPG), Indian Oil Corporation Ltd, Marketing Division, Bihar State Office - Loknayan Jay Prakash Bhawan, 5th Floor, Dakbunglow Chowk, Patna.
3. The Deputy General Manager (LPG), Indian Oil Corporation Ltd., Marketing Division, Bihar State Office - Loknayan Jay Prakash Bhawan, 5th Floor, Dakbunglow Chowk, Patna.
4. Chief Area Manager, Patna Area Office, Indian Oil Corporation Ltd., 1st Floor, Shahi Bhawan, Exhibition Road, Patna.

.... Respondents

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Appearance :
For the Appellants : M/s. Sanjay Singh & Lokesh Kumar Singh, Advocates
For the Respondents: M/s. Anil Kumar Sinha & A. K. Verma, Advocates

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CORAM: HONOURABLE MR. JUSTICE I. A. ANSARI
and
HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date: 20-01-2015

An order, dated 27.06.2014, passed by learned single Judge, in CWJC No. 8727 of 2014, is under challenge, in the present appeal, under Clause 10 of Letters Patent of this court.

2. By the order under appeal, learned single Judge has dismissed the writ application, under Article 226 of the Constitution of India, filed on behalf of the petitioner seeking quashing of a letter, dated 21.10.2013, issued by the Chief Area Manager, Patna office, Indian Oil Corporation (hereinafter referred to as 'the Corporation').

3. By the impugned letter, dated 21.10.2013, the Chief Area Manager, Patna office, Indian Oil Corporation, had rejected the candidature of the petitioner for award of distributorship under Rajiv Gandhi Gramin LPG Vitarak (RGGLV) scheme at location Majha, district Gopalganj.

4. The facts, recorded by learned single Judge in the order under appeal, are not at all in dispute. The appellant, pursuant to the advertisement published by the Indian Oil Corporation, had emerged successful in the draw of lot for the RGGLV. Upon field *verification*, the case of the petitioner was cleared, holding that the petitioner had land of the dimension and suitability in terms of the advertisement as also approach road for the same. However, when the matter came to the competent authority of the Corporation, it transpired that the report of the Field Verification Committee suffered from serious infirmity inasmuch as the petitioner had not produced the registered lease deed with respect to two plots of land, which formed part of the approach road, and the land of the

petitioner did not abut a public road and several private lands had to be crossed before the approach road could be reached. This is also not in dispute that the lease agreements of the plots were, dated 08.07.2013, much after the *last date* of application and date of the Filed Verification Committee's report. The advertisement was issued on 26.02.2012 and the last date for application was 29.03.2012.

5. It appears from the order under appeal that, on the basis of documents submitted at the time of application, the petitioner did not fulfill the criteria of holding the land as described in the brochure for selection of RGGLV. The eligibility criteria was laid down in the advertisement. Relevant portion whereof reads thus,

> *"4(g). own a suitable land (plot) of minimum 20 meter x 24 meter in dimension at the advertised RGGLV location for construction of LPG cylinder Storage Godown.*
>
> *Own means having clear ownership title of the property in the name of applicant/family member of the „Family Unit" as defined in multiple dealership/distributorship norm. In case of ownership/co-ownership by family member, consent letter from the family member will be required.*
>
> *Land for construction of Godown will be considered suitable, if it is freely accessible through all weather motorable approach road (public road or private road of the applicant connecting to the public road) and should be plain, in one contiguous plot, free from live overhead power transmission or telephone lines, Pipelines/Canals/Drainage/Nallahs*

should not be passing through the plot."

6. General instructions to the candidates, applying for the distributorship, as embodied in the said brochure, required that the date of documents have to be on or before the date of application (See Instruction No. 9).

7. From the letter, dated 09.04.2014 (annexure-6 to the writ application), issued by DGM (LPG), Indian Oil Corporation, it appears that the petitioner had, admittedly, offered two plots for construction of LPG godown being Khata No. 664, Khesra No. 598 and 599 and also Khata No. 374, Khesra No. 919. Upon complaint received by the Corporation, it was found that there were discrepancies in the plots offered by the appellant in Khesra No. 919 and so far as plot Nos. 598 and 599 were concerned, it was found that plots were not well connected with the public road and were land locked. The Committee, thus, found that the appellant did not fulfill the eligibility criteria for grant of distributorship.

8. Mr. Sanjay Singh, learned counsel for the appellant, has submitted that it was out of sheer mistake that the plots were wrongly described, at the time of making application for grant of distributorship, which was subsequently corrected by making corrections in the sale deed itself. He further submits that the appellant had been taking steps for acquisition of land for approach to the plot Nos. 598 and 599.

Referring to clause 12(10) of the brochure, Mr. Singh has contended that the appellant should have been given time and opportunity to develop facilities for RGGLV, which was not done by the respondent Corporation and, therefore, the decision to cancel the appellant's candidature requires interference. He submits that learned single Judge did not take this aspect into account and passed the order under appeal.

9. We have perused the impugned order under appeal passed by learned single Judge. We do not find any infirmity with the finding recorded by learned single Judge that the petitioner did not fulfill the eligibility criteria of having clear title over the land as required under clause 4(g) of the brochure.

10. Learned counsel for the appellant also does not dispute the fact that, as per documents submitted by the appellant, at the time of application, he did not satisfy the eligibility criteria laid down in the brochure, but he contends that it was out of sheer mistake, which was corrected subsequently by the appellant and, in that circumstance, his candidature ought to have been considered.

11. We find no merit in the submission made on behalf of the appellant, with regard to clause 12(10) of the brochure, to contend that the appellant ought to have given time and opportunity to develop facilities which he was not

having at the time of submission of application. Clause 12(10) of the said brochure reads thus,

> *"12.10. In case of rejection of selected candidate due to findings in the Field Investigation or if selected candidate is unable to develop facilities for Rajiv Gandhi Gramin LPG Vitrak within the specified time, then his candidature will be cancelled and draw will be held again from the remaining qualified eligible candidates to select the next candidate following the procedure as mentioned above in para 12.3 to 12.6."*

12. The said clause 12(10) contemplates two situations, i.e., rejection of selected candidates due to findings in the field investigation and inability of the selected candidates to develop the facilities for RGGLV within the specified time.

13. In the present case, it was found that the petitioner could not be said to be even fulfilling the eligibility conditions; as on the date of his application on the basis of documents, which he had submitted along with the application. Clause 12(10) is of no help to the appellant in the facts and attending circumstances of the case.

14. There can be no two opinion over the issue that in the matter of grant of distributorship under RGGLV scheme, a candidate's suitability as well as eligibility was required to be adjudged on the basis of documents produced by him or her

along with the application. Even if the documents, which the petitioner had submitted at time of application are assumed to be correct, his candidature can not be treated to be legal, and rightly not treated as legal, when the appellant did not possess necessary eligibility criteria as per the advertisement aforementioned.

15. We find no merit in this appeal. The appeal is, accordingly, dismissed.

(I. A. Ansari, J.)

(Chakradhari Sharan Singh, J.)

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