IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1513 of 2014
In
Civil Writ Jurisdiction Case No. 16222 of 2014

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Kumud Kumar Singh Son of Sri Lalan Singh, Resident of Village - Balia, P.S. Brahmpur, District - Buxar (Bihar)

.... Appellant/s

Versus

1. The Indian Oil Corporation Ltd.through its Chairman, Indian Oil Bhawan, G 9, Ali Yavar Jung Mrg, Badra East, Mumbai - 400051
2. The Chairman, Indian Oil Bhawan, G 9, Ali Yavar Jung Mrg, Badra East, Mumbai - 400051
3. The Dy. General Manager, (LPG) Bihar State office, Indian Oil Corporation Ltd., Lok Nayak Bhawan, Dak Banglow Chowk, Patna - 800001
4. The General Manager, Bihar State office, Indian Oil Corporation Ltd., Lok Nayak Bhawan, Dak Banglow Chowk, Patna - 800001
5. The Chief Area Manager, Marketing Division (Eastern Reason), Indian Oil Corporation, Indian Area Office, Exhibition Road, Patna
6. The Area Manager (L.P.G. Sales, Patna II), Shashi Bhawan, Exhibition Road, Patna

.... Respondent/s

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Appearance :
For the Appellants : Mr. B.P. Pandey, Sr. Advocate
For the Respondent/s : Mr. Kali Das Chatterji, Sr. Advocate

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

ORAL ORDER

(Per: HONOURABLE MR. JUSTICE I. A. ANSARI)

6 13-01-2015 We have heard Mr. B. P. Pandey, learned Senior Counsel, appearing for the appellant, and Mr. Kali Das Chatterji, learned Senior Counsel appearing for the respondents.

Pursuant to an advertisement, the appellant herein, applied for appointment as a Distributor of Liquefied Petroleum Gas, commonly known as L.P.G., from Indian Oil

Corporation Limited (hereinafter referred to as the 'respondent Corporation'). The distributorship of the respondent Corporation was to be awarded, on the basis of, amongst others, the brochure, issued by the respondent Corporation embodying therein guidelines for selection of LPG distributors. In course of time, a draw was held, on 03.10.2013, for selecting the distributor, and as the appellant herein had become successful in the draw, he would have been, ordinarily, appointed as the distributor. However, by letter, dated 21.07.2014, issued by the respondent Corporation, the appellant was informed that his candidature had not been found suitable at the stage of Field Verification of Credentials (F.V.C.) as he was found not to have minimum required sum of rupees ten lakhs, available in his name, on the date of making the application for appointment as the distributor. The letter, dated 21.07.2014, aforementioned is, for the sake of convenience, reproduced below: -

> "*To,*
> *Sri Kumud Kumar*
> *S/o Shri Lalan Singh*
> *Vill & Post Baiva P.S. Brahmpur*
> *PIN-802130*
> *Contact no.: 9431202184*
>
> *Subject: Application for award of LPG Distributorship at: Bihiya, District Bhojpur, under: OP category, Advertised on: 18.5.2012*
>
> *Dear Sir,*

Please refer to your application sl.no.PAT/87/41 on the subject for which draw was held at Patna Area office on 3.10.2013. You were the selected candidate after draw.
But, we regret to inform you that your candidature has found not to be suitable during FVC as.
1. You do not have minimum required fund of Rs.10 lac as on date of application in your name (as on date of application, you had claimed a total fund of Rs.12,81,047/- in Bank, but the same is in the joint account with members outside the family unit as defined in multiple dealership/ distributorship norms which does not comply the eligibility condition as per advertisement).

Thanking you.

Yours faithfully
For Indian Oil Corporation Ltd. (MD)
Sd/-
(Arun Prasad)
Chief Area Manager
Indane Area Office, Patna"

Aggrieved by the fact that he had been held not suitable for appointment as a distributor despite the fact that he stood selected by the draw held in this regard, the appellant came to this Court with a writ application made, under Article 226 of the Constitution of India, which gave rise to C.W.J.C. No. 16222 of 2014.

Having found that the writ petitioner (i.e., the appellant herein), did not have in his name or in the name of his *family unit*, a sum of rupees ten lakhs, which was the requirement in terms of the guidelines contained in the brochure and, on this ground, the respondent Corporation was justified in declining to appoint the writ petitioner (i.e., the appellant herein), as a distributor, a learned single Judge of this Court has dismissed the writ petition on 17.09.2014. Aggrieved by the dismissal of the writ petition, the writ petitioner is, in appeal, before us.

While considering the present appeal, it must be pointed out that in terms of Sub-clause (5) of Clause 4 of the brochure, an applicant was, admittedly, required to have, in his name or in the name of members of his *family unit*, a sum of rupees ten lakhs. The *family unit* has been defined by clause 7(iv), which reads as follows:

> " '*Family unit*' in case of married person/applicant, shall consist of individual concerned, his/her Spouse(s) and their unmarried sons(s)/daughter(s). In case of unmarried person/applicant, '*Family unit*' shall consist of individual concerned, his/her parents and his/her unmarried brother(s) and unmarried sister(s). In case of divorcee, '*Family unit* shall consist of individual concerned, unmarried son(s)/unmarried daughter(s) whose custody is given to him/her. In case of widow/widower, '*Family unit*' shall consist of individual concerned, unmarried son(s)/unmarried daughter(s)."

From the definition of the *family unit*, as embodied in Clause 7(iv), it becomes abundantly clear that *family unit* means the applicant, his or her spouse(s) and their unmarried son(s)/daughter(s).

As the appellant is a married person, his *family unit* would obviously include the appellant, his wife and their unmarried son(s) and daughter(s). Appellant's father does not, thus, fall within the ambit of the definition of the *family unit*.

In the backdrop of what have been pointed out above, when we revert to the facts of the present case, what attracts our attention, most prominently, is that the appellant was found to have a sum of Rs. 12,81,047/- in the bank, in the joint account consisting of the appellant and his father. The amount so deposited could not have been treated, or would not have been treated, as the sole amount of the appellant or his *family unit*.

Situated thus, it becomes clear that the appellant did not satisfy the conditions subject to which the offer of appointment of distributorship of L.P.G. had been made by the respondent Corporation.

It has further been contended, on behalf of the appellant, that the respondent Corporation could have informed the appellant, before the draw was held, about the said deficiency so that he could have removed the deficiency as is provided in the brochure. We are clearly of the view that the failure to have requisite amount in his own account or in the account of the members of his *family* *unit* by the appellant was not a mere deficiency, but an essential eligibility criterion, which had not been fulfilled or satisfied by the appellant; hence, the respondent Corporation was wholly justified in declining to appoint the appellant as its distributor.

Because of what have been discussed and pointed out above, we do not find that the conclusions arrived at, and the decision reached by, the learned single Judge suffers from any infirmity, legal or factual.

The appeal, in our considered view, is wholly without merit.

The appeal is, therefore, dismissed.

No order as to costs.

I.A. No. 8967 of 2014 and I.A. No. 9340 of 2014

In view of dismissal of the appeal, no further order need to be passed in these interlocutory applications and these interlocutory applications shall stand disposed of accordingly.

(I. A. Ansari, J.)

(Chakradhari Sharan Singh, J.)

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