

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2975 of 2009

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Jay Ram Sah, son of Shri Bauwan Sah, resident of village, Bela Kothi, P.S. Khajauli, district Madhubani.

.... Petitioner/s

Versus

- 1.The Union of India through the Secretary, Ministry of Petroleum, Government of India, New Delhi.
- 2.The Indian Oil Corporation Ltd. Through General Manager, Lok Nayak Jai Prakash Bhavan, Patna.
- 3.The General Manager, Indian Oil Corporation Ltd. State Level Officer, Lok Nayak Jai Prakash Bhavan, Patna.
- 4.The Divisional Retail Sales Manager, Indian Oil Corporation Ltd. Muzaffarpur Division Officer, Krishna Complex, Akhara Ghat Road, Muzaffarpur.
- 5.Shri Moti Kumar Dhirasaria, son of Shri SATya Narayan Dhirasaria, resident of Chandni Chow (Raj Nagar), Bhatti Bazar, P.S. RAj Nagar, District Madhubani.

.... Respondent/s

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Appearance :

For the Petitioner/s : None.

For the I.O.C : Mr. Anil Kumar Sinha, Adv and Mr. Amlesh Kr Verma, Adv

For the Respondent/s : Mrs. Kanak Verma (C.G.C)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

5 09-01-2015 No one appears for the petitioner.

Mr. Anil Kumar Sinha, learned counsel appearing
on behalf of Indian Oil Corporation is present.

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

“That this is an application for quashing the select list prepared by the respondents on 17.2.2009 by respondent no. 4, the Divisional Manager, Muzaffarpur Division office by which only with a view to defeat the claim of the petitioner it has been shown “discrepancy found is attested copy of original bank pass book as compared with the original and hence, ineligible”



without showing any point against the site inspection, interview, and other marks which were obtained by the petitioner in qualifying the other criteria and having secured highest mark, every column has been kept blank only by a remark above said and thereby the claim for allotment/grant of license to the petitioner for Kisan Seva Kendra, Sarabe Panchayat has been frustrated by the respondents on account of the fact that the petitioner though qualified in every requirement, his claim has been rejected to benefit respondent no. 5 who has obtained a lesser mark than this petitioner and thereby the respondent authorities may be directed to allot the point/number against each of the category and if secures more marks than respondent no. 5 then he may be allotted Kisan Seva Kendra for Sarabe Panchayat, P.S. Khajauli, District Madhubani."

From the averments made in the writ application, it is clear that the petitioner was an applicant for grant of petroleum outlet for Kishan Seva Kendra at block Khaju in gram panchayat Sarabe of the district of Madhubani and was interviewed on 17.02.2009, but in the result he was shown to be unsuccessful on the ground that the entries in the Photostat copy of the pass-book did not tally with the original of the pass-book. The grievance of the petitioner is that the aforementioned remarks was manufactured only in order to edge him out from the rest because otherwise he was the best candidate on all other parameters. It is on this basis alone that the petitioner



has assailed the selection of respondent no. 5, who according to the petitioner is a candidate of inferior merit on the different parameters prescribed under the advertisement/brochure of the Kishan Seva Kendra.

In this case a counter affidavit has been filed on behalf of Indian Oil Corporation and Mr. Sinha while placing reliance on the same has submitted that the fact remains that mandatory requirement of production of original pass-book at the time of interview of the petitioner was not complied and as such the petitioner's candidature was itself rejected. He has also sought to explain that the entry made by the authorities of the Indian Oil Corporation to the effect that the photocopy of the pass-book did not match with the original on account of wrong appreciation and observance of the instructions issued by the authorities of the Indian Oil Corporation. To that extent, it would be necessary to extract paragraph nos. 3 to 17 of the counter affidavit which reads as follows:-

“That it is stated that this deponent along with Shri

Suresh Paswan and Shri Subir Kumar Das constituted the selection committee that conducted the interview held on 17.2.09 for the selection of the dealer for the concerned location on 17.2.09.

That out of 14 candidates who had applied for the said dealership only 7 candidates appeared for the interview. One of them was the petitioner.

That as per clause 9(e) of the advertisement dated 11.08.2008 an applicant for the dealership was required to produce the original copy of the attested documents submitted along with his application form at the time of the interview.

That the said requirement to produce the original papers was reiterated in the interview call letter issued to every candidate.

That I state that when the petitioner appeared for the interview held on 17.2.09 the selection committee asked the petitioner to produce the original documents as mentioned by him in his application form, one of the documents being the original bank pass book.

That the petitioner however could not produce the original bank passbook. On his failure to produce the original bank pass book the selection committee asked the petitioner to make an endorsement to this effect in writing on the attested copy of the said pass book submitted by him at the time of making the application. Accordingly the petitioner mad an endorsement on the said attested copy in Hindi that the petitioner could not show the original and put his signature thereto.

That therefore admittedly the petitioner did not furnish the original bank pass book at the time of interview.

That as per the terms of the advertisement and the stipulation in the interview call letter non production of the original documents entails disqualification of the candidate.

That though the factual position is that the petitioner did not produce the original ban pass book and accordingly the finding that should have been recorded is that the candidate stands disqualified on the ground of non compliance with the terms of the advertisement, yet in the final mark sheet it has been recorded that "Discrepancy found in attested copy of original bank pass book as compared with the original and hence ineligible."

That such erroneous recording was the result of following the language of the guidelines, which in paragraph 11 of the selection guidelines which reads as follows: "Such ineligible candidates shall be interviewed by the selection committee. However in the mark sheet, the following will be indicated against the name of such ineligible candidate: Discrepancy found in the attested copy (Name of the

document) as compared to the original.”

That following the express language of the guidelines the aforesaid remark has been reproduced verbatim in the mark sheet by the selection committee in the present case. The same was done on the bona fide belief that the selection committee was obliged to strictly follow the language in which the relevant provision in the guidelines was couched.

That however the said remark would not alter the real state of affairs which is that the petitioner had not produced the original bank pass book which he was required to do both in terms of the advertisement as well in terms of the stipulation contained in the interview call letter issued to him.

That further the petitioner has suppressed the fact that he had in fact put it in writing on the attested copy of the bank pass book with his signature thereon that he was unable to show the original bank pass book at the time of the interview. Instead the petitioner has tried to take advantage of the remark in the mark sheet made under some misconception/misapprehension.

That however the ends of justice will be met only by looking to the substance of the matter not the form. If that be so, then there can be no doubt that the petitioner admittedly having failed to furnish the original document and having suppressed the fact that the said omission was admitted in writing is not entitled to any relief from this Hon'ble Court.

That this deponent denies any allegation of favouritism towards respondent no. 5 by any of the members of the selection committee. It is stated that the interview was held with utmost fairness and objectivity and in accordance with the guidelines.”

It has to be noted that the reply to the counter affidavit has been filed and though the petitioner has tried to deny the averments made in the counter affidavit but the specific statement made in paragraph no. 8 of the counter affidavit to the effect that the petitioner had failed to produce the original pass-book has not been

denied.

The dispute that the petitioner has tried to make out a case of forcible entry of a blank paper as per his complaint dated 19.06.2009, is a subsequent event taking place after filing of this writ application on 4.3.2009 and therefore, the petitioner ought to have not waited for filing of the counter affidavit to bring such allegation against the officials of the Indian Oil Corporation.

Thus, whatever has been stated by the petitioner either in the writ application or in the reply to the counter affidavit could have weighed upon this Court had the petitioner produced a chit of paper to show that the original pass-book as required in terms of the advertisement and brochure was produced by him. It needs no reaffirmation of the fact that the production of original document particularly the pass-book for verifying the financial viability was the condition precedent of the selection and therefore, when the



petitioner did not produce the pass-book, this Court will have no difficulty in accepting the rest of the case of Indian Oil Corporation and that the rejection of the candidature of the petitioner was only on account of not producing his original pass-book.

The respondents in fact have also explained the reason for the entry made as with regard to pass-book not tallying with original pass-book and that also seems to be correct in view of the endorsement made by the petitioner in the date of 17.02.2009, wherein, he had categorically stated that he could not produce the original pass book. The documents contained in Annexure-C with the endorsement of the petitioner under his own pen and signature will automatically disentitle him to make any further allegation. Let it be noted that Annexure-C is the photocopy of the first page of the attested copy of the pass-book and endorsement was made by the petitioner on this first page of the Photostat copy of the pass-book. Once, the authenticity

of Annexure-C is not doubted by the petitioner is his rest of the case that his signature was taken forcibly on 19.06.2009, on a blank paper by forcing him to write the word 'Sarabe' and get his signature will in no way improve his case.

This Court, therefore, does not find any merit in the application and the same is, accordingly, dismissed.

(Mihir Kumar Jha, J)

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