

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1234 of 2011

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Md. Dulal Ahmad son of late Abdul Based, resident of village- Bholamari, P.O. & P.S. Amdabad, District- Katihar.

.... Petitioner/s

Versus

1. The Union of India through the Secretary, Ministry of Petroleum & Natural Gas, Govt. of India, New Delhi.
2. The Chief Manager, Hindustan Petroleum Corporation Limited, Jamshedjee Tata Road, Mumbai.
3. The Deputy Chief Manager, LPG East Circle, Hindustan Petroleum Corporation Limited, 8th floor Industry House, 10, Camac street, Calcutta.
4. The Sr. Regional Manager, Hindustan Petroleum Corporation Limited, Patna L.P.G. Regional Office, 6th Floor, Lok Nayak Jai Prakash Bhawan, Dak Bungalow Chowk, Patna.

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Jagdish Prasad
Md. Ataur Rahman

For the Respondent No.1: Mrs. Kanak Verma, C.G.C.

For the Respondent No. 2 to 4: Mr. L. N. Das
Mr. Ranjit Saran

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA

ORAL JUDGMENT

Date: 11-05-2015

Heard the parties.

2. The matter at issue is the award of distributorship of Rajiv Gandhi Gramin L.P.G. (R.G.G.L.V.) at location Amdabad, District Katihar under open category on the basis of advertisement dated 17.10.2009, which has been brought on record as Annexure-6 to the supplementary affidavit filed on behalf of the petitioner.

3. The petitioner has filed the present writ petition assailing the validity and correctness of letter/ order dated 23.08.2010/ 25.08.2010 (Annexure-5) communicated by the respondent no. 4 to the petitioner, whereby the application/ candidature of the petitioner has been rejected on the ground that the land offered by him is not suitable for L.P.G. Godown/ show-room purposes.

4. Learned counsel appearing on behalf of the petitioner



submits that in response to the advertisement dated 17.10.2009 (Annexure-6) for the location at Amdabad in the district of Katihar, the petitioner submitted his application for award of L.P.G. distributorship after fulfilling all the conditions. It is contended that with respect to the land offered by the petitioner, an objection was filed by one Ajit Kumar Gupta alleging therein that the petitioner does not possess the suitable land for LPG distributorship and that matter was enquired into by the competent authority of the H.P.C.L., and by letter/ communication dated 29th June, 2009 (Annexure-3) addressed to the aforesaid Ajit Kumar Gupta, his objection was rejected and the petitioner was held to be eligible for consideration of his claim for award of LPG distributorship. It is also contended that subsequently by the communication/ letter dated 4th March, 2010 (Annexure-2) issued by the respondent no.4, the petitioner was informed that he has qualified for draw for award of LPG distributorship and was also requested to remain present on 25.03.2010, on which date the draw was required to be made for award of the LPG distributorship in question. It is pleaded on behalf of the petitioner that after all the aforesaid communications/ orders, the respondents were not justified in cancelling his candidature for award of LPG distributorship by the impugned communication dated 23.08.2010/ 25.08.2010 (Annexure-5), which, according to the learned counsel, is liable to be set aside by this Court.

5. The matter has been contested by the respondents by filing a counter-affidavit on behalf of the respondent no. 1 and 2. In paragraph-12 to 14 of the aforesaid counter-affidavit it has been asserted that the land offered by the petitioner is not suitable for the LPG godown and show-room. It has been stated that the proposed plot offered by the petitioner is 300 meter away from the main road



and about 3 meter deep and the plot is not connected through all-weather motorable approach road. Learned counsel appearing on behalf of the respondents submits that the petitioner does not fulfil the conditions of Clause-9 of the advertisement and, therefore, the impugned communication cannot be legally faulted. It is further pointed out that so far the communication made to one Sri Ajit Kumar Gupta on 29.06.2009 (Annexure-3) is concerned, his complaint was rejected at the initial stage with an stipulation that if some candidate gives wrong information about the land offered by him or her and even if such candidate is allowed to participate in the draw and is declared to be successful, then in that case also his/her candidature can be cancelled after making physical verification about the lands offered by him/her. It is also pointed out that no finding of fact was recorded in the aforesaid communication that the land offered by the petitioner is/was suitable for the godown/ show-room of the LPG distributorship.

6. After having heard the parties, this Court finds that the claim raised on behalf of the petitioner with respect to suitability of the land offered by him is based on disputed question of fact. According to the petitioner, the land offered by him is suitable for godown and show-room of the LPG distributorship, whereas according to the respondent-Corporation land is not suitable for godown and show room of the LPG distributorship. Furthermore, this Court finds that in the communication dated 29th June, 2009 (Annexure-3) addressed to one Sri Ajit Kumar Gupta, it has nowhere been recorded that the land offered by the petitioner is suitable land. Merely the complaint filed by aforesaid Sri Ajit Kumar Gupta at that stage was rejected for the reasons recorded therein in that letter. I am afraid, on the basis of the aforesaid communication/ letter dated

29.06.2009 (Annexure-3) the petitioner cannot be permitted to draw a conclusion that the land offered by him has been held to be suitable for the godown/ show room purposes. In above view of the matter, this Court does not find any good ground to interfere with the impugned order/ communication dated 23.08.2010/ 25.08.2010 (Annexure-5).

7. Consequently, the writ petition has to fail and is, accordingly, dismissed, but without costs.

8. The interim order of stay passed by a Bench of this Court on 24.02.2011 is hereby vacated. Now, the respondent Corporation shall proceed further strictly in accordance with law.

(Birendra Prasad Verma, J)

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