

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13726 of 2010

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Mohan Kumar @ Narendra Kumar S/O Late Shyam Lal Ram R/O Vill.-
Chakra, P.S.- Siwan (Muffasil), Distt.- Siwan

.... Petitioner/s

Versus

1. The Indian Oil Corporation Limited through its Chairman G-9, Ali Yavar Jung Marg, Bandra (East), Mumbai-400051
2. The Chairman Indian Oil Corporation Limited, G-9, Ali Yavar Jung Marg, Bandra (East), Mumbai- 400051
3. The General Manager, Indian Oil Corporation Limited (Marketing Division), At Eastern Region, Indian Oil Bhawan, 2, Gariahat Road, Kolkata-700068
4. The Deputy General Manager, Indian Oil Corporation Limited (Vigilance), At Eastern Region, Indian Oil Bhawan, 2, Gariahat Road, Kolkata-700068
5. The Regional Manager, Indian Oil Corporation Limited, At Eastern Region, Indian Oil Bhawan, 2, Gariahat Road, Kolkata-700068
6. The Divisional Manager Indian Oil Corporation Limited, Muzaffarpur Divisional Office, Krishna Complex, Akharaghat Road, Muzaffarpur-842001
7. The Indo-Burma Petroleum Company Limited through its Divisional Manager Patna Division, 'Abhay Bhawan', 3rd Floor, Fraser Road, Patna-800001
8. The Divisional Manager, IBP Company Limited (An Indian Oil Group Company), 'Abhay Bhawan', 3rd Floor, Fraser Road, Patna 800001
9. The Deputy General Manager (Vigilance) Indian Oil Corporation Ltd., Indian Oil Bhawan, 2, Gariahat Road, Kolkata-68

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Rajiv Nayan Singh, Advocate Mr. Dinesh Maharaj, Advocate
For the Respondent/s	:	Mr. Anil Kumar Sinha, Advocate Mr. Amalesh Kumar Verma, Advocate Mr. Ankit Katriar, Advocate

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA PRASAD VERMA
ORAL ORDER

4 03-04-2015

Heard the parties.

2. The petitioner has filed the present writ petition under Article 226 of the Constitution of India raising a grievance that the claim of the petitioner for re-constitution of dealership agreement dated 03.10.1983, which was originally issued in



favour of his deceased father Late Shyam Lal Ram, has not been considered by the Indian Oil Corporation Limited and its functionaries despite furnishing of the requisite documents including succession certificate by the petitioner and the location in question has been advertised on 14.07.2010 vide Annexure-1 as Kisan Seva Kendra (retail outlet).

3. Learned counsel appearing on behalf of the petitioner submits that, while the dealership agreement in favour of his father was still subsisting, his father was killed by some miscreants on 11.02.2003 leaving behind the petitioner and others as heirs and legal representatives. It is the case of the petitioner that in view of the death of his father, he applied before the respondent Indian Oil Corporation Limited for re-constitution of the dealership agreement, whereafter certain documents were asked for by the respondents, which were furnished by the petitioner. It is contended that even succession certificate issued in favour of the petitioner by the competent Civil Court on 03.08.2009 was furnished by the petitioner, but for the reasons best known to the respondents, they did not consider his claim for re-constitution of the dealership agreement in accordance with law and in stead, issued advertisement on 14.07.2010 (Annexure-1) for the location in question for award of Kisan Sewa Kendra (retail outlet) dealership.

4. It would be relevant to mention here that this matter was heard earlier on 23.08.2010. So far the advertisement dated 14.07.2010 (Annexure-1) with respect to serial no. 47 is concerned, the authorities were restrained from taking follow up action by the aforesaid order dated 23.08.2010. It is the common case of the parties that no fresh selection has been made so far as

the location in question is concerned.

5. A counter affidavit has been filed on behalf of the respondent Indian Oil Corporation Limited and its functionaries on 02.04.2015 wherein it has been stated that the claim of the petitioner was rejected on 26.05.2011 by the Manager (Retail Sales), Muzaffarpur Divisional Office of the Indian Oil Corporation Limited. According to the learned counsel for the respondents, the retail outlet remained inoperative for more than five years, therefore, it cannot be revived in view of the circular of the respondent Corporation.

6. By way of rebuttal, learned counsel appearing on behalf of the petitioner submits that the decision rejecting the claim of the petitioner has never been communicated to the petitioner. It is further contended that before taking any final decision, opportunity of hearing was not given to the petitioner.

7. From the plain perusal of the document as contained in Annexure-R/3, this Court finds that this was the internal decision of the respondent Corporation and it does not appear to have been communicated to the petitioner. Admittedly, before taking such decision, location in question was advertised way back on 14.07.2010. Therefore, it is apparent that the decision as contained in Annexure- R/3 has not been taken after taking into consideration all the materials produced by the petitioner. In the considered opinion of this Court, the entire matter requires reconsideration and fresh decision.

8. For the reasons recorded above, the petitioner is directed to appear before the respondent no.3, the General Manager, Indian Oil corporation Limited (Marketing Division), having its office at Patna within a period of four weeks from today

with a certified copy of the present order as also all the relevant documents/materials in support of his claim for re-constitution of the dealership agreement, referred to above. Thereafter, the respondent no.3 shall be obliged to consider his claim afresh without being influenced/prejudiced by any finding recorded in Annexure-R/3 to the counter affidavit. If the claim of the petitioner is accepted by the respondent no.3, consequential order shall also be issued for grant of such admissible claim without any unnecessary further delay. However, if the respondent no.3 is not inclined to accept the claim of the petitioner, then he shall pass a fresh reasoned and speaking order after giving an opportunity of hearing to the petitioner at an early date preferably within a period of two months from the date of appearance of the petitioner before the respondent no.3 in the manner indicated above. The advertisement dated 14.07.2010 annexed as Annexure-1 to the writ petition with respect to location in question shall be kept in abeyance till final decision by the respondent no.3.

9. The writ petition stands finally disposed of with the observations and directions made above.

(Birendra Prasad Verma, J)

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