

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.261 of 2012

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Abhay Kumar @ Abhay Kumar Singh S/o Sri Dashrath Kumar Singh R/o
Village- Kanhauli, P.S.- Mahua, District- Vaishali

.... Petitioner/s

Versus

1. The Indian Oil Corporation Limited through Senior Divisional Retail Sales Manager Divisional Office, Block-A, Mauryalok Complexd (3rd Floor), Dak Bunglow Road, Patna
2. The Senior Divisional Retail Sales Manager Divisional Office, Block-A, Mauryalok Complex (3rd Floor), Dak Bunglow Road, Patna
3. The M.D., India Oil Corporation Limited 3A, Mauryalok Complex, Dak Bunglow Road, Patna
4. Ajit Kumar S/o Sri Nagendra Chaudhary R/o Village + P.O.- Kadilpur, P.S.- Jandaha, District- Vaishali
5. Sarita Kumari D/o Late Ram Pavitra Rai R/o Village- Mahua Singhrai, Paschimi, P.S.- Mahua, District- Vaishali

.... Respondent/s

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Appearance:

For the Petitioner/s : Mr. Sanjeev Kumar, Advocate

For the Respondent/s : Mr. Anil Kumar Sinha, Advocate

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN
ORAL ORDER

5 08-12-2015 Heard Mr. Sanjeev Kumar, learned counsel for the

petitioner, Mr. Anil Kumar Sinha for the Corporation and Mr.

Neeraj Kumar Gupta for the private respondent.

The petitioner is aggrieved by the decision of the
respondent Corporation in disqualifying his candidature for
appointment of dealership under the *Kisan Seva Kendra* Scheme.

Fact of the case briefly stated is that the petitioner as
well as the private respondent along with some others applied for
the dealership in which the petitioner was empanelled at serial no.



1 while the private respondent was empanelled at serial no. 2. During the course of verification of the documents the affidavit filed by the petitioner as regarding his involvement in criminal case was not found to be in tune with the requirements of the advertisement as well as the affidavit format published thereunder and as a result the candidature of the petitioner was cancelled followed by award of dealership to the private respondent as the 2nd empanelled candidate and being aggrieved, the petitioner is before this Court.

Initially, the argument of Mr. Sanjeev Kumar almost persuaded this Court to allow the writ petition for he relied upon the brochure, a copy of which is placed at Annexure-6 to the rejoinder application to submit that there was nothing wrong in the affidavit. Referring to Clause-3 of the eligibility conditions as found in the brochure it was argued that it is only such of the applicants who have been convicted in a criminal case other than in the freedom struggle, who have been disqualified from the contest and since the petitioner was not a convicted candidate hence he could not be disqualified.

Mr. Sanjeev Kumar next referring to the application form which also forms part of the brochure at page-94 of the proceedings submits that each of the applicant is supposed to file



affidavit as per Appendix-A, a copy of which is again available at the brochure at page-100 of the proceedings. Mr. Kumar with reference to Clause-5 of the affidavit submits that again the requirement is self explanatory where it is only the convicted who have been disqualified from making any application. Mr. Kumar next referring to Clause-3 of the advertisement enclosed by the Corporation vide Annexure-R/1 to the counter affidavit submits that although Clause-3(1) does mention that any person suffering jail custody for reasons other than freedom struggle are disqualified but the said condition would stand explained by the conditions present in the stipulations provided in the brochure.

The arguments of learned counsel is contested by Mr. Sinha to defend the impugned action on grounds of incorrect affidavit filed by the petitioner. In the short argument advanced by Mr. Sinha he submitted that the brochure referred to by Mr. Sanjeev Kumar is of the year 2007 and even though it does provide guidelines to the appointment of dealership, the stipulations which would govern the present case would be those present in the advertisement published on 14.7.2010 present at Annexure-R/1 which was advertised three years later. Without disowning the stipulations so present in the brochure it was argued by Mr. Sinha that the conditions whatsoever present in the brochure would stand



explained by the advertisement in question. He submits that the application form accompanying the advertisement present at page-48 casts an obligation on the applicant to file affidavit in the form provided at Appendix-A which appears at page-48 and a perusal of Clause-5 of the Appendix-A would shut the door for the petitioner for it requires him to file an affidavit whether he has suffered jail custody in a criminal case other than in relation to freedom struggle.

Mr. Sinha with reference to the impugned order present at Annexure-4 to the application submits that the relevant portion of the affidavit has been quoted in the impugned order itself and a declaration to such effect is apparently missing rather the petitioner has not disclosed that he has suffered jail custody in connection with a criminal case.

The argument of Mr. Sinha has been seconded by Mr. Gupta representing the beneficiary.

I have heard learned counsel for the parties and I have perused the records. The record transpires that the criminal case in which the petitioner had been made accused resulted in his acquittal. Now had the petitioner disclosed the factum of his imprisonment while giving his affidavit then in view of his acquittal the matter perhaps would have required a different

consideration. The reasons for which the petitioner has been disqualified is filing of an incorrect false affidavit and the reasons cannot be faulted with for even if the petitioner relied upon the various stipulations present in the brochure to declare that he had not been convicted in a criminal case, it did not stop him in disclosing that he had suffered imprisonment. The attempt on the part of the petitioner to withhold the relevant information especially when the conditions of the advertisement, the application form and the affidavit present in the advertisement required him to disclose this information, this suppression by itself is sufficient to disentitle the petitioner from any indulgence whatsoever in the present proceeding.

The writ petition is dismissed.

(Jyoti Saran, J)

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