

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4595 of 2014

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1. Bijay Kumar Singh Son Of Late Awadh Kishore Singh Resident Of
Village - Bhaisaihi, P.S. Manjha, District – Gopalganj.

.... Petitioner/s

Versus

1. Indian Oil Corporation Ltd. Through Its Chairman, 3079, J.B. Tito Magr,
Sadiq Nagar, New Delhi - 110 049

2. The General Manager (Lpg) Indian Oil Corporation Ltd., Lok Nayak
Bhavan, Dak Bunglaw Chowk, Patna

3. The Regional Manager, Indian Oil Corporation Ltd., 1st Floor, Shahi
Bhavan, Exhibition Road, Patna - 800 001

4. Manish Kumar Son Of Satya Deo Singh Resident Of Village -
Chaudhry Patti, Parwara, P.S. Parwara, District - Siwan

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Satyavrat Verma

For the Respondent/s : Mr. Anil Kumar Sinha

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL ORDER

3 13-07-2015 Heard Mr. Satyavrat Verma for the petitioner, Mr. S.K.
Ranjan for the respondent no. 5 and Mr. Ankit Katriar for the
respondent Indian Oil Corporation (for short 'I.O.C.').

Petitioner was an applicant for allotment of L.P.G.
Dealership under G.P. category. He obtained a lease in respect of a
land and submitted his application. By the impugned
communication dated 15.1.2014 (Annexure-12), the candidature of
the petitioner has been rejected by the respondent I.O.C. and
communicated. The reasons incorporated therein read as under:

“But, we regret to inform you that your
candidature has been cancelled due to finding during
FVC as:

1. Does not have land for godown as on date of
application (Offered land for construction of LPG
godown in form of registered lease deed is not a valid

offer, because lease deed was execute by only one co-owner without taking NOC from other two co-owners. In the same time another lease executed by all three co-owners to Ms. Shalaini Kumari on 21.07.2009 was also valid at the time of execution of this lease; hence lease executed to you is not a valid agreement for this location).”

Contention of Mr. Verma is that in case of lease obtained

from persons who do not belong to the family members, no

objection certificate would not be compulsory/necessary. He relies

in this regard on Clause 7.1.vi which reads as under:-

“Should own a plot of land of adequate size (within 15 km from municipal/town/village limits of the location offered in the same State) for construction of godown for storage of 8000 Kg of LPG in cylinders or ready LPG cylinder storage godown **as on the date of application**. As per Gas Cylinder Rules, 2004, the floor area of the storage shed for storing 8000 kg LPG in cylinders should be 80 sq metres. The length of the storage shed should not be more than 1.5 times of width of storage shed. There should be clear minimum safety distance of 7 metres between storage shed and the boundary wall/fencing. The plot of land with minimum dimension of 26.15 metres by 27 metre is adequate. It should be freely accessible through all weather motorable approach road (public road or private road of the applicant connecting to the public road) and should be plain, in one contiguous plot, free from live overhead power transmission or telephone lines. Canals/Drainage/Nallahs should not be passing through the plot. The land for construction of LPG godown should also meet the norms of various statutory bodies such as PWD/Highway authorities/Town and Country Planning Department etc.

In case an applicant has more than one suitable plot for construction of godown for storage of minimum 8000 Kg of LPG in cylinders or ready LPG cylinders storage godown **as on the date of**

application, the details of the same can also be provided in the application.

In so far as second ground on which his candidature has been cancelled, it has been submitted that the total area of the land out of which some part was/were leased out to Ms. Shalaini Kumari was more than 15 kathas. Given a chance, the petitioner could have demonstrated that there was/were sufficient land with the lessor to lease in favour of the petitioner meeting the requirements of the I.O.C. Secondly, it has been submitted that the land was leased out by the Lessor of the present land in the year 2009 in favour of Ms. Shalaini Kumari for the purpose of obtaining petroleum dealership. The fact of the matter is that she was ultimately not allotted the dealership. The purpose for which the lease was executed had already lapsed. The claim of the petitioner could have been considered by the respondent I.O.C. earlier in favour of Ms. Shalaini Kumari.

Mr. Ankit, on the other hand, submits that there are basic requirements for consideration and grant of dealership. The petitioner has failed in complying with these requirements. Adequate reasons have been assigned in the impugned communication for rejecting the candidature.

Mr. Ranjan, on the other hand, brings to the notice of the Court that in respect of the land, which is subject matter of the

present writ petition, a title partition suit is pending in Court.

Be that as it may, considering the submission of the petitioner that if a chance is afforded, he could have satisfied the respondent I.O.C. that the reasons for which his candidature has been cancelled or rejected are not valid reasons, I am inclined to dispose of the writ petition permitting him to make a representation against such cancellation of the candidature contained in the impugned communication dated 15.1.2014. If any such representation is filed within three weeks, I am sure the appropriate/competent authority of the respondent Corporation will give a re-look to the claim of the petitioner and take appropriate decision in accordance with law. This Court only clarifies that in taking fresh decision on the representation of the petitioner, the respondent shall not, in any way, be prejudiced by the order they have already passed on 15.1.2014. In other words, the said order dated 15.1.2014 shall not preclude the competent/appropriate authority of the I.O.C. from taking fresh decision in accordance with law.

The writ application stands disposed of.

(Kishore Kumar Mandal, J)

Pankaj/-

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