

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13786 of 2009

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Chanchalla Devi W/O- Vijay Kumar Thakur Flat No- 175, 2nd Floor,
Pocket-1 , Sector 9, Dwarka, New Delhi- 110075

.... Petitioner

Versus

1. The Union Of India Through General Manger I.B.P Ministry Of
Petroleum & Natural Gas, New Delhi
2. Senior Manager(I.B.P.) Co Ltd. &Camac Street 12th Floor, Shanti
Niketan Building , Kolkatta-17
3. The Divisional Manager, Patna Division , I.B.P, Co Limited, A Govt Of
India Enterprised Business Group- Petroleum , Abhay Bgawan 3rd Floor ,
Post Box.208 , Frazer Road, Patna-1
4. The General Manager(Er) , Ibp Co Limited (Indian Oil Group
Company)Business Group Petroleum Ibp House 34 Nirmal Chandra Street
Kolkatta- 700013
5. The District Magistrate Muzaffarpur, Distt- Muzaffarpur

.... Respondents

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Appearance :

For the Petitioner/s : Dr.Shashi S.Kishore
Mr. Shivpujan Sahay
For the Respondent State: Mr. Vivek Anand Amitesh, AC to GP21
For the IOCL : Mr. Anil Kumar Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

3 30-01-2015 Heard learned counsel for the parties.

The prayer of the petitioner in this writ application when it
was filed on 15.10.2009 had read as follows:

“That this is an application for issuance of writ in the
matter of a writ of certiorari to quash the order dated
30.3.2007 issued by General Manager (ER) whereby the
application of the petitioner to award/ issuance of
dealership for setting up a retail outlet at Repura,
Muzaffarpur (Bihar) was informed to be rejected without
having any valid reasons and for issuance of a writ in the
nature of a writ of Mandamus commanding and directing

the respondents to forthwith award/ issuance dealership I.B.P. (a unit of India Oil Corporation) for setting up of a retail out let at Repura Muzaffarpur in view of the fact that the due procedure was required has been full filled by the petitioner as per instruction made by Company.”

As would be noted the impugned order dated 30.3.2007 was passed after full consideration of the case of the petitioner, wherein it was found that apart from the other facts the application of the petitioner for award of dealership was not fit to be accepted because she had failed to abide by certain terms and conditions. To that extent the impugned order clearly records the following reasons which for the sake of clarity and convenience is quoted hereinbelow:

- “1. The application for grant of NOC and application for NHAI approval both dated 21.1.1995 were made by the company for setting up of a retail outlet at Repura on a piece of land owned by Smt. Radha Devi, your mother-in-law. Since the required sanction/ approval was not received, this proposal was shelved.
2. Subsequently during January 2004 Smt. Radha Devi and others had offered their land to IBP Co. Limited for setting up a Retail Outlet. This offer was only for the land and there was no condition to award Dealership.
3. We had applied to District Magistrate, Muzaffapur for his NOC for setting up a Company owned company operated retail outlet on 14.5.2003 which was subsequently received on 7.12.2004.



4. Meanwhile the same land was offered by your husband, Shri Vijay Kumar Thakur which was received by us on 16.8.2003 against our land procurement advertisement dated 6.8.2003. It was stated in that application that “My plot is fully filled up to 5 ft with boundary wall on 3 sites. Office is ready which can be used.” Shri Vijay Kumar Thakur has submitted an application No.210 for Dealership on 17.11.2003. The medical certificate from the competent authority was not submitted with the “Ineligible” for RO Dealership.

5. Subsequently against our advertisement for award of Dealership for the same location dated 23.2.2004, you had submitted a Dealership application Form No.536 offering the same land earlier offered by your husband against our land bank advertisement referred under para-4 above.

6. As per the procedure, the offered land was evaluated by a Committee and the Committee observed that a 33KV High Tension Wire was passing across the plot and accordingly it was not found suitable to put up a Retail Outlet. The committee’s report declaring the plot of land unsuitable for setting up of RO was shown to you at the time of your dealer selection interview held on 28.11.2006.

7. While evaluating your application, it was observed that you have not submitted required medical certificate from the competent authority and also affidavit was not submitted in support of your change of the name from Chanchala Kumari (as mentioned in your Educational Qualification Certificate) to Chanchala Devi. Accordingly you were found “Ineligible” for Dealership.

8. As regards awarding of zero mark under “Finance” and “Educational qualification” the matter was clarified to you by Shri A. Mandal, Sr. Manager (MS) during his meeting with you on 23.2.2007 at Delhi.

9. From the foregoing, it is apparent that the site offered was already fully developed and Shri Vishwanath Thakur, your father-in-law was operating our SKO Agency from this site till May, 2003. Therefore, we do not agree with your contention of spending Rs.40 Lakhs at the instance of IBP officials for this proposal.

We have examined the case in detail and found that no assurance for award of dealership was given by IBP and at no stage you were advised to make any investment at the site. In fact the Convenio Store constructed by you on the plot of land does not appear in the drawing which was submitted to District Magistrate, Muzaffarpur alongwith our application for NOC.

Your request for award of RO dealership at the said plot of land offered by you cannot be accepted so as the land is not suitable for development of retail outlet in view of high tension electrical line passing over the plot. Further you had not submitted the required medical certificate as per the policy and as such your application was found ineligible for award of dealership.

However, in future if the company decide to release any advertisement for dealership at the above location, you may submit your application. If you so desire, which will be considered as per the then prevailing policies.

In case you decide to take pursue the averment made in the

last para of your letter dated 27.12.2006. The same will be solely at your risk and cost. In such event the company will take suitable action to defend its interest.”

As noted above, these reasons were communicated to the petitioner way back on 30.3.2007 but the writ application was filed on 15.10.2009. The delay of nearly 2½ years had a crucial bearing keeping in view that the advertisement for award of dealership was issued on 23.2.2004. This Court, therefore, would find that the petitioner herself did not approach this Court at appropriate point of time.

That apart the petitioner has brought on record a fresh advertisement dated 25.10.2010 in I.A.No. 9512/2010 and had made a prayer that the said advertisement should remain stayed. From the reading of the said advertisement it would be clear that the outlet in question which was earlier advertised in the year 2003, was also re-advertised in 2004.

Let it be noted that in the order dated 30.3.2007, impugned herein, the petitioner was given a liberty to file her application and therefore, it becomes clear that when the petitioner also did not avail the said opportunity by filing application, she cannot in terms of the fresh advertisement dated 25.10.2010 now claim any relief as against the impugned order which is found to be perfectly justified and in accordance with the terms and conditions of the

selection laid down in the advertisement and the brochure.

That being so, this application must fail and is hereby dismissed.

(Mihir Kumar Jha, J)

surendra/-

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