

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19793 of 2014

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Audhar Kumar S/o Sri Arun Kumar Choudhary Professor Colony Dighi West,
Darbhanga, District Darbhanga.

.... Petitioner

Versus

1. Bharat Petroleum Corporation Limited through the Chairman, Bharat Bhawan,
4 & 6, Currimbhoy Road, Ballard Estate, Post Box No. 688, Mumbai-400 001.
2. The Chairman, Bharat Petroleum Corporation Limited, Bharat Bhawan,
4 & 6 Currimbhoy Road, Ballard Estate, Post Box No. 688, Mumbai-400 001.
3. The Territory Manager (LPG), Patna LPG Territory & Bottling Plant, Fatuha
Industrial Area, Patna-803 201.

.... Respondents

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Appearance:

For the Petitioner : Mr. N.K.Agrawal, Sr. Advocate
Mr. Amish K. Jha, Advocate
Mr. S.K.Choudhary, Advocate

For the B.P.C.L : Mr. Madhuresh Prasad, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 26-08-2015

Heard Mr. N.K.Agrawal, learned Senior Counsel for
the petitioner and Mr. Madhuresh Prasad, learned counsel for the
respondents.

2. The present writ petition has been filed for
quashing the letter bearing Memo No. PT:OMP:Darbhanga
(Open) dated 01.11.2014 issued by the Respondent No. 3
rejecting the candidature of the petitioner for award of LPG
Distributorship at Darbhanga, District Darbhanga and for
connected reliefs.

3. Pursuant to an advertisement inviting applications



for award of LPG distributorship under the RGGLV, the petitioner submitted his application on 18.06.2012 which was processed and the petitioner participated in the draw of lots and came to be selected on 11.07.2013. Thereafter, the petitioner was communicated in terms of the impugned letter dated 01.11.2014 that the information submitted by him in his application was found to be at variance upon field verification. It was informed that the petitioner did not fulfill the eligibility criteria of having minimum total amount of Rs. 10,00,000/- as on the date of application which after verification was found to be only Rs. 3,83,876/-.

4. Learned counsel for the petitioner submits that rejection of his candidature after having been selected in the draw of lots without calling for an explanation or grant of any prior opportunity is illegal and violative of the principles of natural justice. It is submitted that grant of opportunity would have enabled the petitioner to have explained the calculation of the total amount of Rs. 19,76,017/- declared by him in his application. Denial of opportunity in this regard has resulted in unilateral rejection of his candidature by the respondents. Reliance is placed on several decisions in support of the submission that natural justice was required to be observed prior to cancellation of the petitioner's selection – (i) *Bijay Kumar Singh vs. Indian Oil Corporation and others* (CWJC No. 4595 of



2014), (ii) *Hiralal Prasad vs. The Union of India and others* (CWJC No. 1602 of 2006 with CWJC No. 2150 of 2005), (iii) *Raghunath Thakur vs. State of Bihar* (AIR 1989 (SC) 620), (iv) *M/s. Southern Painters vs. Fertilizers and Chemicals Travancore Ltd. an another* ((1994) Suppl. 2 SCC 699) and (v) *Dr. Darsh Lal Yadav vs. State of Bihar and others* ((1994) 5 SCC 267).

5. Learned counsel for the respondents on the other hand submits that there is neither any requirement nor provision for grant of opportunity to the petitioner prior to rejection of his selection. He invites attention to the terms of the brochure of guidelines for selection of regular LPG Dealers in this regard and submits that the applications received in response to the advertisements are processed as it is on the basis of the facts and figures shown therein. It is only after the draw of lots that the field verification of credentials is carried out and the declaration made in the application are verified as provided in Clause 11 of the Brochure. In the instant case, Clause 7(v) required a minimum total amount of Rs.10,00,000/- for rural markets as on the date of application which was to be arrived at by adding various amounts held in the names of the applicant or members of the 'Family Unit' of the applicant, which in the case of married applicant consists of the individual concerned and his/her spouse and their unmarried son(s)/daughter(s). The declaration made by the petitioner in the application itself shows



that the petitioner had shown the aggregated balance relating to Savings Accounts standing in the names of persons beyond the definition of 'Family Unit', such as father, wife, brother and sister-in-law. It is therefore, submitted that disqualification was manifest and writ large on the face of the application itself and no enquiry or verification was required in this regard. He also invites attention to the declaration and undertaking forming part of the application itself and duly signed by the petitioner to the effect that if any information given by him was incorrect/false/misrepresented, then the candidature would stand cancelled and he would be declared ineligible for the LPG distributorship. It is, therefore, submitted that in circumstances so glaring, the need for observing principles of natural justice is obviated as held in various judicial decisions – (i) *Ashok Kumar Sonkar vs. Union of India and others* ((2007) 4 SCC 54) and (ii) *Prakash vs. Bharat Petroleum Corporation Ltd. and others* (CWJC No. 674 of 2012).

6. Having heard the parties at length and upon consideration of the materials on record, this Court is not persuaded by the submissions of the petitioner. The decisions relied upon by the petitioner are in a somewhat different context and lay down general principles when natural justice is required to be observed. On the other hand, the decision in (2007) 4 SCC 54 relied upon by the Respondents. lays down as follows :-

“28. A court of law does not insist on compliance with

useless formality. It will not issue any such direction where the result would remain the same, in view of the fact situation prevailing or in terms of the legal consequences. Furthermore in this case, the selection of the appellant was illegal. He was not qualified on the cut-off date. Being ineligible to be considered for appointment, it would have been a futile exercise to give him an opportunity of being heard."

7. In *Prakash vs. Bharat Petroleum Corporation Ltd. and others* (CWJC No. 674 of 2012) a learned single Judge of this Court considered the matter of natural justice in the backdrop of LPG distributorship under the RGGLV and observed as follows :

"His eligibility had to be decided on the basis of the facts mentioned in the application and thereafter the same had to be judged on the basis of field verification as to whether the statements made are correct or not.

The fact that certain enquiries were made on 27.5.2011 with respect to certain other materials can be of no assistance to the petitioner. Once it was made clear that the selection would be made on the basis of the statements made in the application and the petitioner has made incorrect statement in his application his candidature was liable to be cancelled."

8. In view of the facts and circumstances, this Court is in agreement with the submissions advanced on behalf of the respondent inasmuch as the reason for disqualification and the very ineligibility of the petitioner went beyond mere calculation of the total balance in the Bank Account and was obvious on the face of his application where the petitioner in his own handwriting has stated that the balance in the Savings

Bank Accounts related to persons other than persons included within the term 'Family Unit'. This Court is, therefore, of the view that no fruitful purpose would have been served by grant of opportunity in the matter and the same would only have been an idle formality.

9. In the circumstances, this Court finds no merit in the writ application, which is dismissed.

(Vikash Jain, J)

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