IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.618 of 2015
IN
Civil Writ Jurisdiction Case No. 12648 of 2014

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Om Prakash Malhotra, S/o Devaki Ram, Resident of village + P.O.- Tungi, P.S. - Hisua, Distt.- Nawada.

.... Appellant

Versus

1. The Union of India
2. The Secretary, Ministry of petroleum Oil and Natural Gas, Govt. of India, Shastri Bhawan, New Delhi- 110001.
3. The Chairman, Indian Oil Corporation Ltd. 3079/03 J.B. Tilo Marg, Sadique Nagar, New Delhi- 110048.
4. The Executive Director (LPG), Indian Oil Corporation Ltd. Registered Office-G/9 aliyavar Jung Marg (Bandra East) Mumbai- 400 051.
5. The Dy General Manager (LPG) , Bihar state Office, Indian Oil Corporation, Lok Nayak Jai Prakash Bhawan, 5th Floor, Dak Bunglow, Chowk, Frazer Road, Patna-1.
6. The Chief Area Manager, Patna Area Office, Indian Oil Corporation Limited, Shahi Bhawan-1st floor, Exhibition Road, Patna.

.... Respondent

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Appearance :

For the Appellant	:	Mr. Yogesh Chandra Verma, Senior Advocate Mr. Krishna Deo Raj, Advocate
For the Respondent Nos.1 & 2	:	Mrs. Kanak Verma, Advocate
For the respondent Nos.3 to 6	:	Mr. Anil Kumar Jha, Senior Advocate Mr. Sanat Kumar Mishra, Advocate

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CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
And
HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

CAV JUDGMENT
(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

Date: 24-11-2015

Pursuant to an advertisement, dated 28.06.2013, issued by Indian Oil Corporation Limited, a Government of India Undertaking, (hereinafter referred to as 'the Corporation') inviting applications from suitable candidates belonging to Scheduled Caste for distributorship of Liquefied Petroleum Gas (for short, 'LPG') cylinders under the scheme known as 'Rajiv

Gandhi Gramin LPG Vitrak' (for short, 'RGGLV') in village Tungi within the district of Nawadah, the appellant herein, as a person belonging to Scheduled Caste, applied for appointment as distributor of LPG cylinders under RGGLV Scheme.

By letter, dated 21.10.2013, the Corporation informed the appellant that he has been found eligible as a candidate for selection as distributor of LPG cylinders under RGGLV Scheme. Following the issuance of the letter, dated 21.10.2013, aforementioned, a *field verification* process, as envisaged by the guidelines, was initiated. Upon *field verification*, the appellant was informed by the Corporation by its letter, dated 06.03.2014, that his candidature has been cancelled due to the reason that the minimum balance required to be maintained in the bank account of the applicant was found to have been actually standing not in the name of the appellant or in the name of any member of family unit as defined in the advertisement brochure, but in the name of the appellant's father, who did not fall within the definition of *family unit* of the applicant as given in the brochure of the Corporation.

Since the appellant's request to uphold his candidature as valid was declined, the appellant filed a writ petition, which gave rise to CWJC No. 12648 of 2014. By order, dated 25.07.2014, as the appellant's writ petition has been dismissed, the appellant has preferred this appeal.

We have heard Mr. Yogesh Chandra Verma, learned Senior Counsel, appearing for the appellant, and Mrs. Kanak Verma, learned Counsel, appearing for respondent Nos.1 and 2. We have also heard Mr. Anil Kumar Jha, learned Senior Counsel, appearing for respondent Nos. 3 to 6.

There is no dispute that under the terms and conditions of the selection process, in question, an applicant, belonging to Scheduled Caste category, must have, at the time of making the application, in his bank account, a minimum balance of Rs.2,00,000/-. It is also not in dispute that Column No. 13 of the Standard Application Format, Annexure-2 to the writ petition, shows that the appellant was required to confirm and it was, indeed, confirmed that he, as a candidate, belonging to Scheduled Caste category, had, at the relevant point of time, minimum fund of Rs. two lakhs available with him and he had also confirmed that no amount, maintained in the joint account with members outside the "Family Unit", was mentioned in his said application and that both these vital assertions were incorrect, if not untrue. For the purpose of clarity, Column No.13 of the Standard Application Format is reproduced below:

> *"I confirm that I am having minimum funds of Rs.4.0 lakhs (Rs.2.0 Lakhs for SC/ST category) as per the eligibility criteria given at clause No.3 (g) of the advertisement. (Please also refer to item No.10 & 11 of "General*

> *Instructions to the candidates applying for RGGLV"). I also confirm that amount maintained in the joint account with members outside the "Family Unit" are not mentioned in my application."*

Moreover, the writ petitioner-appellant, as applicant, also confirmed that his application, made to the Corporation, seeking appointment of distributor of LPG cylinder under RGGLV Scheme, is complete in all respect and that the requisite documents had also been enclosed. This becomes clearly discernible from Column No.17 of the Standard Application Format, which read as follows:

> *"I confirm that the Application is complete in all respect and the requisite documents have been enclosed."*

Besides the above, the appellant assured the Corporation that he was aware of the fact that the eligibility, for appointment as a distributor under the scheme, would be decided on the basis of the information given in the application and on the verification by the Corporation and if it is found that the information, given by the candidate, is incorrect/false/ misrepresented, then, his/her candidature will stand cancelled and he/she will be declared ineligible for RGGLV. This aspect becomes clearer from the contents of the declaration, which is required to be made, in this regard, by an applicant, under Column No.14, which read thus:

> *"I am aware that eligibility for RGGLV will be decided based on the information given in the application above. On verification by the Oil Company if it is found that the information given by me is incorrect/false/ misrepresented then my candidature will stand cancelled and I will be declared ineligible for RGGLV."*

Coupled with the above, the appellant was required to give an undertaking that the information given by him is true and correct and that any wrong information or misrepresentation or suppression of facts would make him ineligible for being selected as distribution of LPG cylinders under RGGLV Scheme. This requirement can be safely gathered from the undertaking, which read as under:

> *"I, hereby confirm that the information given above is true and correct. Any wrong information/ misrepresentation/ suppression of facts will make me ineligible for this RGGLV."*

In the backdrop of what have been pointed out above, let us, now, turn to the letter, dated 06.03.2014

(Annexure-4 to the writ petition), issued by the Corporation informing the appellant that he was not found suitable for distributorship of LPG cylinders, for the reasons which read as under:

"Ref: PAT/109/02
Date: 06.03.2014

To, Om Prakash Malhotra
S/o Devaki Ram
Po.: Tungi Ps.: Tungi
Dist.: Nawada
Bihar.: 805129
Dear Sir,

Sub**: **Application for award of Rajiv Gandhi LPG Vitrak (RGGLV) at Tungi Majhway District: Nawada under ,Category:SC, Advertised on 28.06.2013

Please refer to your application No. PAT/109/02 on the above subject. We regret to inform you that the following discrepancies were found during field verification:

"1. As per policy, for SC category, the candidate should have minimum Rs. 200000.00 as closing balance as on last date of submission of application in the name of applicant himself or in the name of any member of family unit as defined in the advertisement brochure. You have shown minimum balance in the name of your father and as per declaration, you are married, your father is outside of family unit member. Amount in the name of outside family unit

member cannot be considered.

Hence, your candidature has not been found suitable for award of subject RGGLV as per policy.

(Emphasis is supplied)

From a bare reading of letter, dated 06.03.2014, it becomes abundantly clear that the Corporation did not find the writ petitioner suitable for award of distributorship, in question, on the ground that though as per policy, a candidate, belonging to Scheduled Caste category, should have minimum Rs.Two lakhs as closing balance as on last date of submission of application in the name of applicant himself or in the name of any member of *family unit* as defined in the advertisement brochure, the applicant did not have any such minimum balance inasmuch as the minimum balance of Rs. Two lakhs was shown by him to be lying in the account of his father, though, he (applicant) being a married person, his father was not a member of the *family unit* as defined in the brochure of the Corporation. This stand of the Corporation was in tune with the policy of distributorship of LPG cylinders under RGGLV Scheme inasmuch as the definition of "Family Unit", as given in Clause 6. f, reads as follows:

6. **Common Eligibility Criteria For All Categories:**

xxx xxx xxx xxx xxx

'Family Unit' in case of married person/applicant, shall consist of individual concerned, his/her Spouse

> *and their unmarried son(s)/ daughter(s). In case of unmarried person/applicant, 'Family Unit' shall consist of individual concerned, his/her parents and his/her unmarried brother(s) and unmarried sister (s). In case of divorcee, 'Family Unit' shall consist of individual concerned, unmarried son(s)/unmarried daughter (s) whose custody is given to him/her. In case of widow/widower, 'Family Unit' shall consist of individual concerned, unmarried son(s)/unmarried daughter (s)."*

From the above, it is more than abundantly clear that if an applicant is married, his/her family unit will consist of his/her spouse and his/her unmarried son(s) and daughter(s). Only in case, when the applicant is unmarried, his/her family unit will consist of his/her parents, unmarried sister(s) and brother(s). Since the appellant herein is a married person, his *family unit* l consisted of his wife, his unmarried son(s) and daughter(s); but in no case, his father could come within the family unit as explained in Clause 6 (f) of the Brochure.

We may also refer to Clause 10 of the brochure, which provides for *field verification* of credentials (FVC) in the following terms:

> *"10.* ***Field Verification of***

Credentials(FVC)

10.1 *Verification of the information given in the application by the applicant with the original documents and with the issuing authorities wherever required is called Field Verification of Credentials(FVC).*

10.2 Field verification will be carried out for the selected candidate as per laid down procedure. If in the FVC, the information given in the application by the applicant is found to be correct. Letter of intent (LOI) will be issued with the approval of competent authority.

10.3 If in the FVC, it is found that information given in the application is at variance with the original documents and that information affects the eligibility of the candidate, then a letter would be sent by Registered Post AD/Speed Post pointing out the discrepancy. Candidature of selected candidate in such a case will be cancelled and 10% of security deposit i.e. Rs.20000/- (Rupees Twenty thousand) deposited by the selected candidate before FVC will be forfeited if false/incorrect/misrepresented information has been given in the application."

The contention of the appellant in the writ petition had been that the brochure for selection of RGGLV would clearly show that an amount of Rs.2,00,000/-, in the bank account, could have been furnished even after the writ petitioner, i.e. the appellant herein, was selected and offered the distributorship. Reliance, in this regard, was placed on Clause 18, Clause 6(g) and Clause 8.5 of the brochure.

The learned Single Judge has concluded that while Clause 6 lays down requisite conditions of eligibility for every candidates for all categories, violation whereof would make the candidates concerned disentitled for being considered for selection, Clause 18 is the provision, which would apply only when a person is already selected. The learned single Judge has pointed out that under Clause 18, certain concessions have been given to the candidate of Scheduled Caste category for removal of their defects, but the provisions of Clause 18 will come into play, when the candidate is, otherwise, found and declared eligible.

In the case at hand, as the respondents had already held the appellant ineligible and, on that basis, rejected his request for appointment by letter, dated 06.03.2014, the learned single Judge upheld this decision.

Having noticed that according to the Corporation, the petitioner, i.e. the appellant herein, was found ineligible and since the appellant has failed to show that at the time of making application, he had furnished the proof of deposit of Rs. 2,00,000/- in his bank account, or in the account of his *family unit*, he had obviously not fulfilled the condition as laid down in Clause 6. g of the brochure. The appellant has shown the requisite amount with the bank account maintained by him and his father; but according to Clause 6 (f), his father will not come in the appellant's *family unit*. In this regard, the learned single Judge has pointed out, in paragraphs 9 and 10 of the judgment, as follows:

> *"9. The submission of Mr. Maitin that on 21.10.2013, the petitioner was found eligible for such award of LPG dealership in the communication made by the Chief Area Manager has to be also understand in the context that there is a provision in Brochure that all the submitted applications are put to a lottery and the person whose name is picked up in the lottery is called for the further scrutiny. It is at this scrutiny stage in course of field verification, it was discovered that the petitioner did not fulfill the eligibility criteria of having a deposit in bank of Rs. two lacs on the date of filing his application which was the basic eligibility criteria."*

> *"10. In that view of the matter, this Court does not find any merit in that part of the submission that earlier the petitioner was found to be eligible in all respect. As a matter of fact, when the learned senior counsel for the petitioner is not in a position to deny this aspect that the petitioner had not produced the proof of his having two lakh rupees in his account on the date of filing of the application and has gone to also accept that it was only subsequently that he had rendered such proof, the Corporation could not have waived the mandatory eligibility requirement only in case of the petitioner. This requirement in fact has to be uniformly applied for all the candidates and, therefore, any relaxation made in the case of the petitioner above by itself could have led to a similar claim by other persons. Thus on a overall view this Court does not find any error in the impugned order passed by the authority."*

Having carefully perused the contents of eligibility and conditions precedent for appointment of distributor of LPG cylinders under RGGLV Scheme, we find that the decision of the Corporation, holding the appellant not eligible for being selected as distributor of LPG cylinders under RGGLV Scheme, is wholly correct inasmuch as the appellant had, undoubtedly, failed to furnish that he had Rs. Two lakhs balance in the bank account as is warranted under the relevant scheme and, therefore, rejection of his candidature by the Corporation cannot be held to be bad in law. We find no infirmity, legal or factual, in the appreciation of the facts, particularly, relating to the condition of eligibility and the failure on the part of the appellant to fulfill those conditions as pointed out by the learned single Judge.

The appeal, to our mind, is wholly without merit and is, therefore, dismissed.

However, there shall be no order as to costs.

(I. A. Ansari, ACJ.)

Chakradhari Sharan Singh, J. I agree.

(Chakradhari Sharan Singh, J.)

Sunil/AFR

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