

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.19208 of 2014

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Ranju Kumari, wife of Shri Lalan Kumar, resident of Mohalla Damrahi
Ghat, P.O. Patna City, P.S. Malsalami, District Patna

.... Petitioner

Versus

1. The General Manager, Hindustan Petroleum Corporation Limited,
registered office-17 Jamshedji Tata Road, Mumbai, PIN 400020
(Maharashtra)
2. The Deputy General Manger, Hindustan Petroleum corporation Limited,
North Central Zone, Lucknow (U.P.)
3. The Senior Manager, Legal, Hindustan Petroleum Corporation Limited,
North Central Zone, Lucknow (U.P.)
4. The Senior Regional Manager, Hindustan Petroleum Corporation
Limited, Retail Regional Office, Lok Nayak Bhawan, Sixth Floor,
Patna-1, District Patna

.... Respondents

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Appearance :

For the Petitioner/s : Mr. Manendra Kumar Sinha

For the Respondent/s : Mr. Rajeev Prakash

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

5 28-01-2015 Heard learned counsel for the parties as with regard to the

following reliefs prayed in this writ application:-

"(i) Hon'ble High Court direction to respondents to
take immediate and effective steps upon the matter which
is pending before them for more than last eight months and
the petitioner is suffering unnecessary harassment for the
same.

(ii) To Hon'ble Court direction to the respondents
for taking re-interview of the petitioner for selection of
retail outlet dealer in the light of guidelines of Hindustan
Petroleum Corporation Limited, hereinafter called
H.P.C.L. published in September 2011 by the said
corporation.

(iii) To consider the case of petitioner and conduct

her interview for selection of retail outlet dealer for location serial no. 78 under guideline of HPCL as the petitioner remaining alone and only fit candidate after cancellation of first empanelled candidate.

(iv) To Hon'ble High Court direction to respondent authorities to act upon as per guidelines of H.P.C.L. and call the petitioner for re-interview and fix a date for the same."

2. Let it be noted that this court had passed initially an order dated 12.11.2014 relevant portion whereof reads as follows:-

".....Before this Court would approve the oral stand taken by the learned counsel appearing on behalf of the Hindustan Petroleum Corporation Limited (hereinafter referred to as 'the Corporation') that now the interview cannot be held on account of the letter of the Government of India dated 23.06.2014, it would call upon the competent authority of the Corporation to file a counter affidavit as to why such interview was not held in a period of almost seven months when the order was passed on 27.11.2013 by the Senior Manger (Legal) to the following effect:

"Accordingly, for the reasons mentioned above, the merit panel for location 'within 4 Kms from Laxmi Narayan Mahavidyalaya, Bhagwanpur on RHS from Bhagwanpur towards Rajla Chowk on NH-77' district Vaishali is cancelled. The region is advised to inform all the candidates who have appeared for the original interview and conduct re-interview in line with the guidelines."

Thus, in the counter affidavit, the respondent-Corporation will not be only required to reply on the aforementioned so called instruction of the Government of

India but also give cogent reasons for not taking up any steps for holding interview between 7.11.2013 to 25.06.2014."

3. Thereafter on 18.12.2014 this Court had again sought certain more clarification as would be apparent from the following portion of the aforesaid order dated 18.12.2014

".....Having heard learned counsel for the parties as also on perusal of the stand taken by the respondent Hindustan Petroleum Corporation this Court would call upon the General Manager of Hindustan Petroleum Corporation (respondent no.1) to file a supplementary affidavit stating as to how the petitioner will not be entitled for consideration of her case even as per the order of the Govt. of India dated 23rd June, 2014, relevant portion whereof reads as follows:

“ No.R-30024/33/2012-MC

Government of India

Ministry of Petroleum & Natural Gas

Shastri Bhawan, New Delhi

Dated 23rd June, 2014

To

Director (Marketing)

IOCL/HPCL/BPCL,

Mumbai

Subject: Guidelines for selection of Retail outlet
(RO) dealership/ LPG distributorship.

Sir/ Madam,

I am directed to say that the matter regarding the process of allotment of Retail Outlet (RO) dealership/ LPG distributorship has been examined in the Ministry. OMCs are directed to cancel all cases of ROs/LPG distributorship allotments in the cases where interviews (including original or re-scheduled or arising out of established complaints) are pending as on date of issue of this letter. OMCs are advised that all such locations may be taken up afresh as per extant policy under new system of “draw of lots” by undertaking fresh process of selection.

2. This issue with the approval of MOS(I/C) P & NG.

Yours faithfully,

Sd/-

(Rajesh Kukreti)

Under Secretary to the Govt. of India”

Thus, if the earlier dealership selection in which the petitioner was at serial no.2 was cancelled, the said location was to be re-advertised for selection under the new system. The stand, therefore, taken by the respondents in the counter affidavit that the case of the petitioner cannot be considered because that location has not been advertised will definitely lead to another question as to why the petitioner should suffer only by the first part of the order of the Govt. of India regarding

cancellation of the earlier selection process for the same location which as per the second part of the same letter of the Govt. of India was required to be re-advertised for consideration of the eligible candidates including the petitioner as per the new policy.

Let it be noted that there is no explanation as with regard to inordinate delay of more than seven months in not complying the order of the Sr. Manager (Legal) dated 27.11.2013 under which the petitioner had become entitled for reconsideration of her case at best with one more candidate, namely, Prabhu Bhagat."

4. Finally on 19.1.2015 this Court had passed an order, relevant portion whereof reads as follows:-

"Having heard learned counsel for the parties as also perused the supplementary counter affidavit, while this Court is satisfied that there were adequate reasons for the respondent oil company to await the decision of on going enquiries in respect of other complaints for holding the interview together and since the Government of India instruction scrapping all such pending interview under the old advertisement in the meantime had been enforced, it would still find some difficulty in disposing this writ application on account of



another issue raised by learned counsel for the petitioner to the effect that the assurance given in paragraph no. 18 of the supplementary counter affidavit to the effect that the petitioner can apply in terms of fresh advertisement dated 17.11.2014 would be a misnomer because now the category of petroleum outlet in question itself has been changed from open category in the last advertisement to C.C.2 in the present advertisement dated 17.11.2014 which will automatically oust the petitioner from zone of consideration on account of his being eligible only for open category and not to CC2 category.

As this issue was never raised by the petitioner even in the interlocutory application assailing the aforementioned advertisements dated 17.11.2014, in I.A. No. 8838 of 2014, this Court would direct the deputy General Manager, North Central Zone of H.P.C.L., the deponent, of the supplementary counter affidavit to file yet another supplementary counter affidavit explaining the reason for change of category from open to C.C.2 and whether the petitioner would still remain

eligible for the location in question even after change of category from open to C.C. 2."

5. Having regard to the solitary issue left out in this matter, this Court on perusal of the second supplementary counter affidavit of the Oil Company is satisfied that the change of the eligibility criteria as well as category of location in the fresh advertisement, for which earlier the petitioner had filed her application, is justified.

6. That being so, this writ application must fail and is, accordingly, dismissed.

(Mihir Kumar Jha, J)

surendra/-

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