

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.22581 of 2013

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Poonam Jha Wife Of Shri Surendra Kumar Jha Resident Of Ward No.23,
Nabtoliya, Benipur, P.S. Bahera, District - Darbhanga

.... Petitioner/s

Versus

1. Indian Oil Corporation Limited through Its Senior Divisional Manager Retail Sales, Indian Oil Corporation Ltd., Muzaffarpur Divisional Office, Muzaffarpur
2. Senior Divisional Manager Retail Sales, Indian Oil Corporation Ltd., Muzaffarpur Divisional Office, Muzaffarpur
3. Sales Officer, Indian Oil Corporation Ltd., Darbhanga
4. The State Of Bihar, Through District Magistrate, Darbhanga
5. The D.C.L.R., Benipur, Darbhanga
6. The Circle Officer, Benipur, Darbhanga
7. Shri Sanjeev Kumar Thakur Son Of Shri Vijay Kumar Thakur Resident Of Majhora, P.S. Bahera, District - Darbhanga

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Tez Bahadur Singh, Sr Adv
For the I.O.C. : Mr. Anil Kumar Sinha, Adv
For the State : Mr. Ashok Kumar Chaudhary AAG-13 with
Mr. Anil Kumar Tiwary AC to AAG-13
For the Respondent No.7 : Mr. Shailendra Kr Singh, Adv

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL JUDGMENT

4 12-01-2015 Heard learned counsel for the parties as with

regard to the following relief prayed in this writ

application:-

“to quash the final result dated 30.1.2012, published by Indian Oil Corporation Ltd. for “Location-between 1 and 1.5 Kilometer from Dharaura Chowk towards Darbhanga on S.H. 56” in the district of Darbhanga, whereby and whereunder Shri Sanjeev Kumar Thakur has been declared as First Empanelled candidate and further to quash the Letter dated 17.5.2012 issued by Senior Divisional Manager Retail Sales, Muzaffarpur Divisional Office and also to quash the Ref: BSO/RS/KSK/804 dated 07.10.2013 issued under the authority of General Manager, Bihar State

Office, Indian Oil Corporation Ltd. by which the allegation of the petitioner has been said to be not substantiated and further for issuance of a writ in the nature of Mandamus directing and commanding the respondent authorities to award the dealership for the location in question to the petitioner.”

Mr. Tej Bahadur Singh, learned senior counsel appearing on behalf of the petitioner in support of the aforementioned prayer has basically concentrated on the aspect that the authorities of the Indian Oil Corporation while evaluating the offer of respondent no. 7 had completely failed in its action that whatever land was offered by respondent no. 7 could not have qualified him for the grant of Petroleum Outlet under Kisan Seva Kendra (K.S.K.) scheme. In this regard he has relied primarily on a report of the D.C.L.R., dated 06.12.2013 addressed to the Sr. Deputy Collector, Darbhanga.

Let it be noted that the petitioner was an applicant for the same Petroleum Outlet (K.S.K.) and she had stood second in the panel and her grievance against respondent no. 7 being made had the first in panel was raised in different complaint filed by her on 23rd of



May, 2012 (Annexure-12). In that complaint, she had basically assailed the decision of the interview board in awarding marks/points to the respondent no. 7 on the ground that respondent no. 7 had wrongly claimed the ownership and possession of Plot No. 6710 which was according to her was a gair majarua land. To that extent, relevant portion of the complaint reads as follows:-

“That apart from above facts submitted by the undersigned to the I.O.C., office at Branch Muzaffarpur on 27-2-2012, the under signed begs to inform that she was ranked second position in aforesaid Interview where in Sanjeev Kumar Thakur had played fraud with the company by getting lease of R.S.P.No. 6710 which is Anabad Bihar Sarkar land and the Lr.court of L.R.D.C., has also declared the same as ‘Anabad Bihar Sarkar’.

Thus, whatever complaint was filed by the petitioner was as with regard to false declaration given by respondent no. 7 in respect of Plot No. 6710. It is this aspect of the matter which was made subject matter of inquiry and the authorities of the Indian Oil Corporation having examined the same had found that respondent no. 7 in fact had offered three plots by way of two lease deeds one in respect of Plot No. 6723 and the other in

respect of Plot No. 6722 and Plot No. 6710. The total area for both the lands came to 70.46 decimals (Plot No. 6722 measuring 28.36 decimals and Plot No. 6723 and Plot No. 6710 altogether 42.10).

The authorities of the oil company after conducting enquiry had arrived at a conclusion that even if Plot No. 6710 was not taken into account due to its being gair majarua land, respondent no. 7 had still fulfilled the qualification of land because his two other Plot Nos. 6722 and 6723 were absolutely fulfilling the requirement. To that extent, the impugned order passed by the authorities of the Indian Oil Corporation had recorded following finding:-

*“RefK BSO/RS.KSK
Date:7th October 2013
To,
Smt. Poonam Jha
W/o Sri Surendra Kumar Jha
At-Navtoliya, Ward-23,
Nagar Parisad Benipur,
Dist:Darbhanga, Bihar-847 103
Subject: Disposal of Complaint as contained in
Annexure-12 in pursuance of Hon’ble Patna High Court
order in CWJC No:11655/2012 dated 24.07.2012
Madam,
This has reference to the complaint filed as
Annexure-12 in CWJC No. 11656 of 2012.
All your allegations were examined, opinion from*

Legal Department was obtained, and our comments in the matter are given below.

This is to inform you that as per laid down policy of the Corporation, evaluation of an applicant is being done by the evaluation Committee members based on documents submitted by the applicant with the application form. During the time of evaluation, there is no scope for the evaluation Committee members to ascertain the status of Title of the land or any other dispute. As per laid down policy, the Title of the land is verified before issuance of Letter of intent and in the event of any deviation/anomaly being found, action is initiated against that applicant as per policy of the Corporation. In the instant case, the evaluation committee has correctly awarded marks to Sri Sanjeev Kumar Thakur based on the document submitted by him.

The documents related to the land offered by his Sanjeev Kumar Thakur for the subject dealership were perused by our Legal Department and the title of the land offered by Sri Sanjeev Kumar Thakur for the subject dealership were perused by our Legal Department and the title of the land offered by Sri Sanjeev Kumar Thakur has been found to be clear. As far as plot no. 6710 is concerned, it is clarified that the same is a Gair Majarua land which lies as flank in between the Plot offered for Retail Outlet i.e. Plot No. 6722 & 6723 and the SH-56. Thus the offered plots i.e. Plot No:6722 & 6723 of Sri Sanjeev Kumar Thakur are abutting road and meets the criteria to develop a Retail Outlet.

Since, none of your allegations are substantiated, further action towards selection of the subject dealership is being taken in line with 'Merit Panel' dated 30.01.2012.

The same is being, however, issued without any prejudice to your rights and contention of the Corporation in the matter.

Yours faithfully

For Indian Oil Corporation Limited.

Sd.

For General Manager

Bihar State Office".





Thus when the petitioner had to assail this decision, she had to find out the materials on the basis of which it could be said that on account of lease of Plot No. 6710 being not available to respondent no. 7 due to its being gair majarua land whether he could be still disqualified. Today, in course of argument Mr. Tej Bahadur Singh has tried to project a picture that if Plot No. 6710 is deleted from consideration, no frontage of the road will be available to the respondent no. 7. For this purpose, he has relied on the report of the D.C.L.R.

In the considered opinion of this court first of all that report is subsequent report which did not take into account topography of Plot No. 6710 and 6723. In any way it was for the petitioner to project in her complaint that in absence of Plot No. 6710, respondent no. 7 shall be left with no frontage but not a word about it has been said in the complaint. The submission of Mr. Singh, by offering Plot No. 6710, respondent no. 7 had made suppression of fact will also be of no avail. The lease



deed produced by Respondent no. 7 from someone who had definite right and title to Plot Nos. 6722 and 6723 therefore, Plot Nos. 6722 and 6723 itself had qualified respondent no. 7 to get allotment of the Petroleum Outlet in question who may have also included portion of part of Plot No. 6710 in the lease deed of respondent no. 7 but than that could not disqualified the Respondent no. 7 because even without plot no. 6710, he had been found to have fulfilled the requirement of prescribed condition of land.

Thus for the reasons indicated above this Court does not find any flaw in the allotment of Petroleum Outlet in favour of respondent no. 7.

That being so, this writ application fails and is, accordingly, dismissed.

(Mihir Kumar Jha, J)

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