

CP 4001

Division Bench

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

(CHHATTISGARH)

WRIT APPEAL NO. 346 /2014

APPELLANTS

(RESPONDENTS)

1. Indian Oil Corporation Limited,
Through : Chairman, Indian Oil Corporation Limited, Madhya Pradesh State Office, Indian Oil Bhawan, 16, Arera Hills, Jail Road, Bhopal, 462011 (Madhya Pradesh)
2. General Manager (Marketing Division), Madhya Pradesh State Office, Indian Oil Bhawan, 16, Arera Hills, Jail Road, Bhopal, 462011 (Madhya Pradesh)
3. Deputy General Manager (Retail Sales), Madhya Pradesh State Office, Indian Oil Bhawan, 16, Arera Hills, Jail Road, Bhopal, 462011 (Madhya Pradesh)
4. Chief Divisional Retail Sales Manager, Indian Oil Corporation Limited, Raipur, Divisional Office, Indian Oil Bhawan, Rajeev

P.R.No. 346/14
Presented by Shri. Parag Kotekar
dated 26.8.14



[Signature]

Gandhi Marg, Post Ravigram
Telibandha, RAipur, 492006.

VERSUS

RESPONDENTS

PETITIONER

:1. Smt. Amrita Agrawal W/o Rajesh
Agrawal, Aged about 32 years,
R/o Main Road, Bagicha, Police
Station and Post Bagicha, District
Jashpur-(C.G.)

RESPONDENT NO.5

:2. Smt. Archana Sharma, W/o
Dinesh Sharma, Aged about 32
years, R/o Bus Stand, Bazar Dand
Road, Bagicha, Police Station and
Post Bagicha, District – Jashpur-
(C.G.)

**WRIT APPEAL UNDER SECTION 2(1) OF THE HIGH COURT OF
CHHATTISGARH (APPEAL TO DIVISION BENCH) ACT 2006**

HIGH COURT OF CHHATTISGARH AT BILASPUR

**DB:- HON'BLE SHRI NAVIN SINHA, ACTING CHIEF JUSTICE &
HON'BLE SHRI P. SAM KOSHY, J**

Writ Appeal No.219 of 2014

**Appellant
(Respondent 5)**

Smt Archana Sharma

VERSUS

Respondents

Indian Oil Corporation Limited and
Others

Writ Appeal No.346 of 2014

Appellants

Indian Oil Corporation Limited and
others

VERSUS

Respondents

Smt Amrita Agrawal and another

Present: Shri Mateen Siddiqu and Shri Anand Shukla, counsel for
respective appellants.
Shri Manoj Paranjpe, counsels for respective respondents.

J U D G M E N T
(29th of January, 2015)

Per Navin Sinha, Acting Chief Justice

These two appeals arise from the order dated 30.4.2014 passed in
Writ Petition(C) No.387/2013.

2. The Learned Single Judge allowed the Writ Petition interfering with
the selection of the Appellant for appointment as a 'KSK' dealer by the
Corporation.

3. Learned counsel for the Appellants submitted that the Learned
Single Judge erred in interfering with her selection. There was no
challenge to Clause 9(b) of the guidelines for selection. Under the

clause, once a candidate eligible under the Corpus Fund category had been considered unsuccessfully, the remaining candidates had still to be considered on the same basis by excluding marks awarded to them under the criteria "capability to provide infrastructure and facilities" and "capability to provide finance".

4. Learned counsel for Respondent No.5, the Writ Petitioner, submitted that the Learned Single Judge has rightly held that once the candidate from the Corpus Fund category was excluded after consideration, the interse merit of candidates who had not applied in the Corpus Fund category had to be decided by including the marks awarded to them under the aforesaid two heads.

5. We have considered the submissions on behalf of the parties. The procedure for selection of dealers is provided for in the brochure issued by the Corporation dated 01.07.2010. Relevant for discussion is Clause 9(b) providing for Corpus Fund facilities for women. To be eligible to apply under the Corpus Fund scheme, the applicant was required to be a widow and unmarried above 40 years of age without earning parents. A candidate applying under the Corpus Fund scheme, was not to be judged under the heads "capability to provide infrastructure and facilities" and "capability to provide finance". In order to determine seniority for selection between the women who may have applied under Corpus Fund scheme and those women who may not desire the benefit of the Corpus Fund, the marks secured by the latter under the aforesaid two heads was to be excluded.

6. A reading of Clause 9(b) indicates the policy of the Corporation was to provide assistance to widows, unmarried women above 40 years

of age without earning parents. They constituted a category of women who needed help because of their social and economic conditions and to provide them a source of livelihood for which the Corporation would step in for assistance. The condition of these applicants under the Corpus Fund Scheme was fundamentally different from those who were well off and were in a position to provide both infrastructure facility and finance. Naturally, a candidate in the latter category would have higher marks because of the award of marks to her in the two additional categories of infrastructure and finance. In order to create a level playing field the policy provided that in the latter category, marks obtained under the aforesaid two heads would be excluded.

7. Once all the women were placed on a level playing field to determine their marks and still the candidate who had applied under the Corpus Fund scheme did not secure the highest marks, the selection criteria had to revert back in open category where the interse merit was to be determined by including marks awarded for infrastructure and finance. The policy in clause 9(b) does not provide and nothing can be read into it that notwithstanding the fact that the applicants were not widows, unmarried women above 40 years of age without earning parents having no capacity to provide infrastructure and finance, they would still be judged by deeming them to be persons belonging to such a category. The moment applicants from the Corpus Fund scheme got excluded, selection reverted to the others at par with assessment of merit to be determined afresh by including respective marks awarded to them under the heading "infrastructure and finance".

8. We therefore, find no reason to interfere with the order under appeal. Both the appeals are dismissed.

Sd/-
Acting Chief Justice

Sd/-
P. Sam Koshi
Judge

riya