NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Appeal No. 304 of 2015

1. Hindustan Petroleum Corporation Ltd. Through : Director, Hindustan Petroleum Corporation Ltd, Registered Office 17, Jamsgedji Tata Road, Mumbai 400020 (Maharashtra)

2. Regional Officer, Hindustan Petroleum Corporation Ltd, Lpg Bottling Plant, Mandir Hasaud, District Raipur (Chhattisgarh)

---- Appellants

Versus

Anurag Tiwari S/o Shri Satyendra Nath Tiwari Aged About 26 Years R/o Tiwari Colony, Darripara, Ambikapur, P.S. Ambikapur, District Surguja (Chhattisgarh)

---- Respondent

Writ Appeal No. 402 of 2015

Anurag Tiwari S/o Shri Satyendra Nath Tiwari, Aged About 27 Years R/o Tiwari Colony, Darripara, Ambikapur, P. S. Ambikapur, District- Surguja (Chhattisgarh)

---- Appellant

Versus

1. Hindustan Petroleum Corporation Limited Through: Director, Hindustan Petroleum Corporation Limited, Registered Office 17, Jamshedji, Tata Road Mumbai 400020 (Maharastra)

2. Regional Officer, Hindustan Petroleum Corporation Limited, L P G Bottling Plant, Mandir Hasaud, District Raipur (Chhattisgarh)

–------Respondents

Mr. Ali Asgar, Advocate	:	for the Appellants in W.A. No. 304/2015 and for the Respondents in W.A. 402/2015.
Mr. Sunil Tripathi, Advocate	:	for the Respondent in W.A. No. 304/2015 and for the Appellant in W.A. No. 402/2015

Hon'ble The Chief Justice
Hon'ble Shri Justice P. Sam Koshy

Judgment on Board

Per Navin Sinha, Chief Justice

25/08/2015

1. I.A. No. 1 of 2015 has been filed in the Writ Appeal No. 402 of 2015 to condone delay of 55 days in filing the appeal. Considering the duration, delay is condoned.

2. Both the appeals arise out of the common order dated 01.05.2015 dismissing Writ Petition (C) 2318 of 2014, denying award of LPG dealership but directing refund of Rs. 50,000/-, forfeited as security deposit.

3. Learned Counsel for the Appellant-Corporation submits that the Learned Single Judge erred in holding that the amount lying in the Current Account could also be taken into consideration for calculating the balance of 15 lacs, contrary to marketing discipline guidelines by reading into it some thing excluded specifically.

4. It was next submitted that during field verification report, the plot offered by the applicant for godown was found unaccessible by road, which amounts to furnishing of wrong information. Forfeiture of security deposit under the marketing discipline guidelines was justified.

5. The Appellant-applicant for dealership submits that forfeiture was not done in accordance with the procedure prescribed in Clause 10 (C) of marketing discipline guidelines. The applicant had not furnished any false information.

6. We have considered the submissions on behalf of the Parties.

7. Clause 10 (C) of the guidelines dealing with field verification procedure states that if information given by the candidate is found at variance with the original document affecting eligibility, it is required to be pointed out to the candidate in

writing and if it is found that any false, incorrect information had been furnished or misrepresentation has been made, then 10% of the applicant's security deposit would be forfeited. The giving of an opportunity to explain before forfeiture is ordered is there manifest in the guidelines.

8. The Corporation straightaway issued order dated 20.09.2014 for forfeiture of security deposit without recording its satisfaction after opportunity of reply and consideration, if any false or incorrect information had been furnished or that the information had been misrepresented. We therefore find no reason to interfere with the conclusion of the Learned Single Judge on this count but without prejudice to the rights of the Corporation afresh in accordance with law.

9. The field verification having been done in presence of the applicant we are not inclined to go into the disputed question of fact regarding accessibility to the lands offered.

10. If the marketing discipline guidelines required the stipulated balance in a savings bank account and any other specified securities, excluding current account, the Court in the exercise of judicial review jurisdiction cannot apply the principle of inclusive definition to read something additional in the guidelines not provided for thus varying the terms and conditions. The conclusion in this regard is not sustainable and is set aside.

11. Both the Writ Appeals are allowed in part.

Sd/-
(Navin Sinha)
Chief Justice

Sd/-
(P. Sam Koshy)
Judge

Kishore