

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

Writ Petition No.33591 of 2010

Date: 05-10-2015

Between:

R. Chandra Rao Kondagorri

.. Petitioner

AND

Bharath Petroleum Corporation Limited,
Represented by its Area Marketing Manager,
Secunderabad and 2 others

.. Respondents

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

Writ Petition No.33591 of 2010

ORDER:

-

Heard the learned counsel for the petitioner and the learned Government Pleader for Revenue. With the consent of both parties, the writ petition is heard at the admission stage itself.

The present writ petition came to be filed seeking issuance of writ of mandamus declaring the action of the respondents 1 and 2 in awarding 1 mark for overall assessment and 1.66 marks for Business ability and 1 mark for personality to the petitioner, as illegal, arbitrary and violative of principles of natural justice.

The case of the petitioner is that in pursuance of the notification dated 18-09-2010 published in Andhra Jyothi Daily newspapers inviting applications for appointment to the dealership of BPCL in various places, the petitioner submitted

his application on 18-10-2010 for dealership of Retail outlet of BPCL (Rural) at Palakonda, Srikulam District, along with requisite documents. Thereafter, he attended interview, which was held on 18-12-2010 at Visakhapatnam, along with other two candidates. The 3rd respondent was selected for the dealership and the application of the petitioner for grant of dealership was rejected. Aggrieved by the said action, the present writ petition is filed.

Learned counsel for the petitioner mainly submits that the respondents 1 and 2 have wrongly assessed the overall assessment of the 3rd respondent and without any application of mind, awarded 2 marks for overall assessment to the 3rd respondent. He further submitted that awarding less marks to the petitioner even though he was better qualified is clearly in violation of principles of natural justice and also in violation of Articles 14 and 21 of the Constitution of India. He further contends that awarding of 4.33 marks for business ability i.e. nearly 2.67 marks more than what the petitioner was given is only to show favouritism to the 3rd respondent. As such, he seeks mandamus to cancel the dealership awarded to the 3rd respondent.

Though the learned counsel for the petitioner raised various contentions and contended that in order to show favouritism to the 3rd respondent, the respondents 1 and 2 awarded more marks to the 3rd respondent than the petitioner, no material has been placed to show any bias. It is not even alleged in the writ affidavit filed in support of the writ petition

that the 3rd respondent is known to the respondents 1 and 2 or he was in any way related to any of the respondents. Since evaluation of marks is based on the performance of the candidates and their ability, the discretion exercised in awarding marks to the 3rd respondent basing on his performance and ability is vested with the respondents 1 and 2 and this court, in exercise of its jurisdiction under Article 226 of the Constitution of India cannot sit over the discretion exercised as it is neither irrational nor illegal. Hence, this court is of the view that there are no merits in the writ petition and the same is liable to be dismissed.

In **Abraham Kuruvila v. S.C.T. Institute of Medical Sciences and Technology and others**^[1], the Supreme Court, while dealing with the allegation of bias against some of the members of the selection committee observed that it is now well settled principle of law that bias which would mean and imply spite or ill will must be proved by raising requisite plea in this behalf and by adducing cogent and sufficient evidence in support thereof. In fact, bias is a state of mind and it shows predisposition. Thus, general statements would not meet the requirements of law.

Accordingly, the writ petition is dismissed. There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, pending shall stand closed.

C. PRAVEEN KUMAR, J

Date: 05-10-2015

Ksn

[\[1\]](#) 2005 (9) Supreme Court Cases 49