

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

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WRIT PETITION No.19793 of 2013

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WRIT PETITION No. 29502 of 2014

COMMON ORDER:

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Since the petitioner in both the Writ Petitions is one and the same and as his grievance in both the Writ Petitions is with regard to allotment of a outlet at P.P. Kunta (Polu Pedda Kunta) village, Gopavaram Mandal, Kadapa District, the same are being disposed of by this common order.

Writ Petition No.19793 of 2013 was filed questioning the action of the respondents in failure to complete the entire process of setting up of the retail outlet on State Highway No.57 at P.P. Kunta village, Gopavaram Mandal, Kadapa District even after a lapse of 1½ year since the date of interview on 05.12.2011 as illegal, arbitrary and violative of principles of natural justice.

Writ Petition No.29502 of 2014 came to be filed questioning the action of the respondents 1 to 5 in intending to allot the above mentioned outlet to the 6th respondent as illegal, arbitrary and violative of principles of natural justice.

On 26.09.2014, this Court while directing to post both the Writ Petitions together ordered *status-quo* as on that day with reference to establishment of retail outlet in Survey No.1619 of Gopavaram village. Later on 09.10.2014 the interim order granted on 26.09.2014 was extended till 31.10.2014, which was later extended till further orders.

The factual matrix of the case is as under :

The Bharat Petroleum Corporation Limited (B.P.C.L.) issued a notification, for establishment of a retail outlet for petrol and petroleum products on State Highway No.57 at P.P. Kunta village, Gopavaram Mandal, Kadapa District. The petitioner herein applied for the dealership and the respondent-corporation, after being satisfied with the application, issued a letter dated 21.11.2011 calling upon the petitioner to attend for the interview to be held on 05.12.2011. Accordingly, the petitioner attended the interview and after assessing the merits and demerits, the petitioner secured 93.55 marks. The sixth respondent herein, who also attended the interview, got 88.01 marks. It is alleged that though the petitioner got highest marks and stood first, no letter of intent was issued. Hence, filed W.P. No.19793 of 2013.

Later, the petitioner came to know that the 4th respondent herein has proposed to allot the said retail outlet to 6th respondent and also made an application to the District Collector, Kadapa for issuance of N.O.C. for installation of retail outlet in Survey No.1619 of Gopavaram village and Mandal, Kadapa District. Then the petitioner filed W.P.M.P. No.34452 of 2014 seeking a direction that the retail outlet shall not be allotted to any person. Since no letter of intent was issued though the petitioner was selected for the dealership of the outlet and as the respondents are planning to allot the retail outlet to the 6th respondent, W.P. No.29502 of 2014 came to be filed.

The main grounds urged by the learned counsel for the petitioner is that though he was selected for the dealership of the outlet, no letter of intent is issued till date. He submits that the action of the respondents 1 to 5 in trying to allot the outlet to the 6th respondent, when the *status-quo* order passed by this Court is in force, is contrary to law.

The contesting respondent filed his counter disputing the averments made in the affidavit filed in support of the Writ Petition. According to him, the Writ Petition has to be dismissed with exemplary costs as the petitioner has come to the court with un-clean hands. It is said that

the petitioner and himself attended the interview on 21.11.2011 and after assessing the merits and demerits, the 6th respondent was placed at second place and the petitioner was placed in the first place. According to him, the petitioner furnished a bogus certificate showing as if he is working in Sri Saibaba Agencies of IOICL Nellore Road, Badvel, Kadapa District since 2007, which is falsified by the proceedings of the Assistant Labour Officer, Badwel dated 09.12.2011. It is further stated that as per the guideline No.16, if any suppression is found by the person who has been placed first in the panel, his candidature shall be rejected automatically and the allotment would be made to the person next in line. In view of the above it is stated that the petitioner is not entitled for any relief. However, Petroleum Corporation filed their counter bringing to light certain facts. It is stated that pursuant to an advertisement made in the news papers the petitioner and 6th respondent submitted their applications and appeared in interviews held on 05.12.2011. The petitioner was empanelled as first candidate and the 6th respondent as second candidate. The averments in the counter filed by the Corporation show that the petitioner herein made a false declaration with regard to his Bank balance in the Savings Account as on 19.10.2010. In view of the false declaration made, it is contended that the petitioner is not entitled for appointment as a Dealer.

From the material placed on record it is clear that much prior to the filing of W.P. No.29502 of 2014, the Corporation sent a letter dated 21.10.2013 by Registered Post with Acknowledgment Due to the petitioner, informing him that his empanelment for the above location stands cancelled in view of the false declaration made by him. Though the petitioner was informed about the cancellation of his empanelment by a letter dated 21.10.2013, there is no reference to the same in the Writ Petition filed in the year 2014.

Apart from that, the petitioner in his application disclosed his Bank balance as on 19.10.2010 at Rs.9,03,753.79 ps. but during field verification, it was found by the officials of the respondent/Corporation

that the bank balance as on 19.10.2010 was only Rs.4,53,753.79 ps. Though the initial balance of that date was shown as Rs.9,03,753.79 ps., but on the very same day there was a debit of Rs.4,50,000/- thereby showing the balance as on the end of that date as Rs.4,53,753.79. The said figures are not disputed by the learned counsel for the petitioner. But, he however, tries to wriggle out from the situation by contending that without his knowledge his friend presented the cheque for collection. From the above, it is clear that the bank balance as on 18.10.2010 was Rs.3,753.79 ps., and an amount of Rs.9,00,000/- was deposited on the very same day, out of which, an amount of Rs.4,50,000/- was withdrawn on the same day vide cheque No.144955. Therefore, the closing balance as on 19.10.2010 was only Rs.4,53,753.79 ps., which is contrary to the documents annexed to the application.

Clause 21 of the Brochure reads as under :

“If any information furnished by the applicant is found to be false at any point of time before or after appointment as a Dealer or conceals any information which if declared would have made him/her ineligible for dealership, the allotment will be cancelled forthwith and dealership is liable to be terminated, in case commissioned.”

From the undisputed facts referred to above, it is clear that the petitioner made a false declaration/furnished false information by showing his bank balance at Rs.9,03,753.79 ps., on 19.10.2010, whereas the actual balance which was found during field verification was only Rs.4,53,753.79ps. Issue identical to the case on hand came up for consideration before the Apex Court in **Shiv Kant Yadav v. Indian Oil Corporation and others**. It was also a case where true and correct information was not placed before the authorities with regard to income earned by the petitioner while making the application. In view of the factual misstatement, the Supreme Court confirmed the order of the High Court in canceling the allotment. Therefore, the order passed by the respondent/corporation canceling the empanelment of the petitioner cannot be found fault

with.

Apart from that, the authorities passed an order canceling the allotment and communicated the same to the petitioner vide letter dated 21.10.2013 by Registered Post with Acknowledgment Due. It is to be seen that the said order/letter was passed/communicated much prior to the order of *status-quo*. If really the petitioner is aggrieved, he ought to have questioned the letter dated 21.10.2013. It is now brought to the notice of the Court that the 6th respondent has already been allotted the outlet and is running the same. Having regard to judgment of the Apex Court referred to above and in view of the mis-statement of facts in the application form, the Writ Petitions are liable to be dismissed.

Accordingly, both the Writ Petitions are dismissed. No order as to costs. Consequently, miscellaneous petitions, if any, pending in these Writ Petitions shall stand closed.

JUSTICE C. PRAVEEN KUMAR

Dt: 20.11.2015

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