

CWP-23154-2012

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP-23154-2012

Date of Decision:21.09.2015

Rakesh Kumar

... Petitioner(s)

Versus

Indian Oil Corporation Ltd. and another

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?.
- 2) To be referred to the Reporters or not ?.
- 3) Whether the judgment should be reported in the Digest ?

Present: Mr. Ranjivan Singh, Advocate,
for the petitioner.

Mr. Ashish Kapoor, Advocate,
for respondents.

Paramjeet Singh, J. (Oral)

Instant writ petition has been filed under Articles 226/227 of the Constitution of India for setting aside the display marksheet format (Annexure P-7) whereby zero marks have been granted to the land of the petitioner.

It is the case of the petitioner that in pursuance of advertisement dated 16.02.2012, two persons including the petitioner applied for Kishan Seva Kender at village Agampur, Ropar. The claim of the petitioner has been rejected only on the ground that high tension power line passes overhead the land of the petitioner.

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In pursuance of notice of motion, the respondents put in appearance and filed written statement. It is the stand of the respondents that it is one of the conditions in the brochure that if high tension overhead lines passes over the plot, the same will be disqualified for allotment.

I have heard learned counsel for the parties and perused the record.

Clause 15 of brochure which provides for selection for petrol/diesel Kisan Seva Kendra (Rural Retail Outlet) Dealers, reads as under:

“15. SUITABILITY OF SITE OFFERED BY THE APPLICANTS

The technical/commercial suitability of the land/site offered by the applicants against advertisement for any location will be ascertained by a committee of IOCL officers before the interview for that location based on the following parameters.

<i>EVALUATION BY SITE SELECTION COMMITTEE</i>		
<i>Sl. No.</i>	<i>Parameter</i>	<i>Weightage</i>
		<i>KSK</i>
<i>1</i>	<i>Sales potential</i>	<i>15</i>
<i>2</i>	<i>Frontage</i>	<i>12</i>
<i>3</i>	<i>No earth filling reqd.</i>	<i>7</i>
<i>4</i>	<i>No earth/rock cutting reqd.</i>	<i>4</i>
<i>5</i>	<i>No Low Tension over Head Line</i>	<i>3</i>
<i>6</i>	<i>No Over Head Telephone Line</i>	<i>3</i>
<i>7</i>	<i>No Trees</i>	<i>2</i>
<i>8</i>	<i>Proximity to culvert (farther from culvert desirable)</i>	<i>11</i>
<i>9</i>	<i>Soil Type (Soft)</i>	<i>5</i>

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EVALUATION BY SITE SELECTION COMMITTEE		
10	Availability of Power	8
11	Availability of Water	8
12	Visibility from Road	9
13	No presence of Divider	4
14	Outside Octroi Limits	9
	Total	100

**Wherever, Octroi is not applicable, the marks will be added to 'Sales Potential' and sales potential will be evaluated out of total of 24 marks.*

The minimum qualifying marks for the plot of land will be 75. Also, it must secure 75% marks in the parameter "Sales Potential".

Notes:

If high-tension overhead line passes over the plot, the same will be disqualified. The offered land should also meet norms for statutory bodies like forest, explosive etc. and land should be convertible for commercial, diesel and petrol sales.

During the interview, the site selection report in respect of the site offered by an applicant will be shown to the concerned applicant and signature obtained for having 'seen' the report."

As per note appended in the said Clause, if high-tension overhead line passes over the plot, the same will be disqualified. Admittedly, high tension overhead line passes over the land of the petitioner. The case of the petitioner is that the petitioner has requested the department concerned for removal of high tension line, therefore, if he is allotted the Kisan Seva Kendra, he would get the high tension

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overhead line removed. The request of the petitioner cannot be accepted as it is the condition precedent that the land should be clear from high tension overhead line and if high tension overhead line passes over the plot, the same will be disqualified. Therefore, allotment to the petitioner will be a circumvention of aforementioned note. The petitioner approached the authorities concerned for shifting of high tension line just before the date of interview. This does not fulfil the aforementioned condition precedent that there should not be overhead high tension line passing over the land. There is nothing on record to show that the authorities concerned have agreed to shift the high tension line to some other place.

In view of above, I do not find any merit in this petition.

Dismissed.

21.09.2015
parveen kumar

(Paramjeet Singh)
Judge