

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

Civil Writ Petition No.4378 of 2012

Date of decision: 16.01.2015

Raj Kumar son of Shri Prabhu Ram, resident of House No.989,
Sector 23, HUDA, Bhiwani, Tehsil and District Bhiwani.

... Petitioner

versus

Union of India through Secretary, Ministry of Petroleum and
Natural Gas, Government of India, Shastri Bhawan, New Delhi, and
others.

.... Respondents

CORAM: HON'BLE MR. JUSTICE K. KANNAN

Present: Mr. Tara Chand Dhanwal, Advocate,
for the petitioner.

Mr. Raman Sharma, Advocate,
for respondents 2 to 4.

Mr. Vikas Behl, Senior Advocate,
with Ms. Samiya Singh, Advocate,
for respondent No.5.

1. Whether reporters of local papers may be allowed to see the judgment ? No.
2. To be referred to the reporters or not ? No.
3. Whether the judgment should be reported in the digest ? No.

K.Kannan, J. (Oral)

1. The petitioner is an applicant for allotment of retail outlet pursuant to an advertisement notification floated by the 2nd respondent. The petitioner is aggrieved by the choice of the 5th respondent as a successful candidate and would make issues on the

manner of evaluation made by the Corporation on 3 subjects. Firstly, his contention was that he had been granted 98 marks based on site inspection, while the 5th respondent had been granted 96 marks. According to him, even the 96 marks ought not to have been granted to him since there is overhead low tension wires going over the 5th respondent's land and that should cause reduction of certain marks. I had at the previous hearing directed the counsel for the Corporation to furnish the details of how assessment had been made for inspection of the site. The counsel has produced the copies of technical evaluation of the proposed sites and it is noticed that the petitioner has been granted 3 marks on the ground that there were no low tension wires, but on the other hand, the 5th respondent has been granted 0 mark for the presence of low tension wires. I would not therefore find the first objection tenable.

2. The learned counsel would also submit that based on the documents of title, the petitioner has been granted only 25 marks, while the 5th respondent has been granted 35 marks and that he should be granted additional 10 marks. The third objection is that for fixed movable assets, the petitioner has been granted 0 mark, while the 5th respondent has been granted 4 marks, which according to him, was not justified.

3. As regards the 3rd objection regarding the manner of appraisal for fixed and movable assets, the Corporation has taken

objection in para 4 of the written statement that the petitioner had not appended the certified copies of the title deeds. The brochure reveals that the candidate applying must furnish the copies of documents and if the petitioner has not furnished the copies, there could be no scope for providing any marks for the petitioner. The counsel for the Corporation has produced before me the copies of all the documents submitted by the petitioner. I have examined them and I find that no copy of title deed has been produced. The brochure also states that the documents not furnished along with application form which are required to be sent as per Clause 9 of the brochure cannot be accepted or considered after the cut off date for submission of applications. The Corporation's statement that the petitioner had not appended the copies of title deeds has not even refuted by way of rejoinder. I will not, therefore, find any error in the appraisal made granting only 0 mark to the petitioner for the fixed and movable assets while awarding the 5th respondent 4 marks. The second objection that the petitioner had been granted higher marks for land and infrastructure, even if it were to be granted as the maximum 35 marks as possible, the petitioner cannot still secure anything better, for, it will secure to him only 89.50 marks which is still less than what the 5th respondent has taken. The manner of assignment of marks by a Technical Evaluation Committee cannot be re-examined by a court unless there is something patently

arbitrary and a serious error in appraisal. The limit of judicial review itself is only to examine patent illegalities. I have gone even a step further to re-examine the appraisals only to satisfy myself that there is nothing seriously amiss in the manner canvassed by the petitioner in the choice of the 5th respondent. There is no scope for interference. The writ petition is dismissed.

(K.KANNAN)
JUDGE

16.01.2015
sanjeev