

CWP No.8383 of 2014

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

**CWP No.8383 of 2014
Date of decision:05.10.2015**

Nitish Behl

...Petitioner

Versus

Bharat Petroleum Corporation Ltd. and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Hitesh Kaplish, Advocate,
for the petitioner.

Mr. Raman Sharma, Advocate,
for the respondents.

Rakesh Kumar Jain, J.

Pursuant to the advertisement dated 07.03.2012, the petitioner made an application for award of regular LPG Distributorship at Ludhiana-2, District Ludhiana, Category-Open under the Marketing Plan 2011-12. He was allowed to participate in the draw of lots in which he was successful. However, after field verification, it was found that the petitioner had supplied the lease deed of the land for godown, which was only notarized and not duly registered and hence, vide order dated 04.02.2014, the petitioner's candidature was rejected.

Counsel for the petitioner has argued that the registration of the lease deed is curable irregularity on which petitioner's candidature should

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not be rejected. It is also submitted that the petitioner was allowed to participate in the draw of lots after verifying his documents and now after he has been declared successful in the draw of lots, his candidature cannot be rejected on the ground mentioned here-in-above.

On the other hand, counsel for the respondents has submitted that the award of regular LPG Distributorship is governed by the Guidelines on Selection of Regular LPG Distributorship, in which it is provided as under:-

“6.1 Common Eligibility Criteria for all Categories applying as Individual:-

The applicant should

(i) to (vi) xxx xxx xxx xxx

(vii) Should own as on the last date for submission of application as specified in the advertisement or corrigendum (if any):

a plot of land of minimum dimensions 25 M x 30 M (within 15 km from municipal/town/village limits of the location offered in the same State) for construction of LPG Godown for storage of 8000 Kg of LPG in cylinders. The plot of land for construction of godown not meeting the minimum dimensions of 25 M x 30 M will not be considered.

Or

a ready LPG cylinder storage godown (within 15 km from municipal/town/village limits of the location offered in the same State) of 8000 Kg capacity.

In case there are any state specific requirements/norms applicable for construction of the LPG Godown, then the same will be applicable for the respective Regular Distributorship locations and revised minimum dimensions of plot of land will be required as specified in the Advertisement of that respective State.

The plot of land or ready LPG cylinder storage godown should be freely accessible through all weather motorable

approach road (public road or private road connecting road connecting to the public road). In case of private road connecting to the public road, the same should belong to the applicant/member of Family Unit (as per the multiple dealership/distributorship norm of eligibility criteria) as per the ownership criteria defined below. In case of ownership/co-ownership by family member(s) in respect of such private road, consent letter from respective family member(s) will be required.

The land should also be plain, in one contiguous plot, free from live overhead power transmission or telephone lines. Canals/Drainage/Nallahs should not be passing through the plot. The land for construction of LPG godown should also meet the norms of various statutory bodies such as PWD/Highway authorities/Town and Country Planning Department etc.

In case an applicant has more than one suitable plot for construction of godown for storage of minimum 8000 Kg of LPG in cylinders of ready LPG cylinder storage godown as on the last date for submission of application as specified in the advertisement or corrigendum (if any), the details of the same can also be provided in the application.

- (viii) Own a suitable shop of minimum size 3 metres by 4.5 metre in dimension or a plot of land for construction of showroom of minimum size 3 metres by 4.5 metre as on the last date for submission of application as specified in the advertisement or corrigendum (if any) at the advertised location or locality mentioned in the advertisement. It should be easily accessible to general public through a suitable approach road.

In case an applicant has more than one shop of minimum size 3 metre by 4.5 metre in dimension or a plot of land for construction of showroom of minimum size 3 metre by 4.5 metre as on the last date for submission of application as specified in the advertisement or corrigendum (if any) at the advertised location or locality as specified in the advertisement, the details of the same can also be provided

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in the application.

Reference vii & viii above:

'Own' means having ownership title of the property or registered lease agreement for minimum 15 yrs in the name of applicant/family members (as defined in the multiple distributorship norm of eligibility criteria) as on the last date for submission of application as specified in the advertisement or corrigendum (if any). In case of ownership/co-ownership by family member(s) as given above, consent in the form of a Notarized Affidavit from the family member(s) will be required."

It is submitted that the registered lease deed of 15 years is a *sina qua non*, which had to be submitted by the petitioner/candidate with the application, whereas admittedly, the petitioner had only submitted a notarized lease deed and the said defect is incurable.

I have heard learned counsel for the parties and examined the available record.

Counsel for the petitioner has failed to argue about the validity of the aforesaid guidelines contained in Clause 6.1(vii) & (viii) of the brochure. He has only submitted that once he has been declared successful in the draw of lots, the respondents are estopped from rejecting his candidature for award of regular LPG Distributorship. This argument is not acceptable because the eligibility for draw of lots is not final and is subject to field verification which is to be conducted in respect of a candidate who becomes successful in the draw of lots in which every information and documents supplied by the candidate are manually verified.

In the case of the petitioner, it was found that the land comprised in Khasra No.5896/1013/1/1/2 situated at village Gill No.1,

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Rajguru Nagar, Ludhiana offered by the petitioner for godown was on long lease for 20 years but the lease deed is not registered and admittedly only on a notarized document, whereas the brochure, referred to above, specifically provides that the said lease has to be registered on the last date for submission of application and cannot be registered lateron.

I am in full agreement with the arguments raised by counsel for the respondents on the basis of the terms and conditions contained in the brochure and find mentioned in Clause 6.1(vii) & (viii) thereof, which have already been referred to in the earlier part of the judgment.

Thus, in view of the aforesaid facts and circumstances, I do not find any merit in the present writ petition and hence, the same is hereby dismissed.

October 05, 2015
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(Rakesh Kumar Jain)
Judge