

In the High Court for the States of Punjab and Haryana, at
Chandigarh

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i)

LPA No. 1546 of 2014

Date of decision: August 18, 2015

Dr. Promila

..Appellant

Versus

Raj Kumari and others

..Respondents

ii)

LPA No. 1591 of 2014

Raj Kumari

..Appellant

Versus

Indian Oil Corporation Limited and others

..Respondents

Coram: **Hon'ble Mr.Justice Satish Kumar Mittal**
Hon'ble Mr. Justice Mahavir S. Chauhan

Present: Mr. Kanwaljit Singh, Sr. Advocate
with Mr. B.P.S.Randhawa, Advocate
for the appellant. (In LPA No. 1546 of 2014)
and for respondent No.3 in LPA No.1591 of 2014)
Mr. Arun Nehra, Advocate
for the appellant (in LPA No. 1591 of 2014)
and for respondent No.1 in LPA No.1546 of 2014)
Mr. Ashish Kapoor, Advocate
for respondent Nos.1 and 2 in LPA No.1591 of
2014 and for respondent Nos.2 and 3 in LPA
Nos. 1546 of 2014.

- 1.Whether to be referred to Reporter? Yes/No
- 2.Whether the judgment should be reported in the
digest ? Yes/No

Mahavir S.Chauhan, J.

This order shall dispose of LPA No. 1546 and 1591 of 2014 as both these Appeals have emanated from a common order dated 8.8.2014 whereby the learned Single Judge has quashed allotment of petrol/diesel outlet in favour of appellant Dr. Promila, and has directed the respondent-Indian Oil Corporation to go for a fresh process of allotment in the manner known to law while holding appellant Dr. Promila to be disqualified from participating in such a fresh process even after she agrees to surrender her licence of a Medical Practitioner.

Conspectus of events leading to the instant intra-court appeals reveals that responding to an advertisement (Annexure P1) issued by the Indian Oil Corporation Limited, both the appellants, namely, Dr. Promila and Raj Kumari applied for allotment of the petrol/diesel outlet identifiable as location/site No. 123, near Bahalgarh, NH-1, District Sonapat, which was reserved for woman of Scheduled Caste category. In the panel drawn by the Indian Oil Corporation, Dr. Promila ranked No.1 and Raj Kumari ranked No.3. Applicant at No.2, namely, Meenakshi Ranga having been allotted outlet somewhere else withdrew from the contest. When letter of intent was issued in favour of Dr. Promila on 27.11.2004, Civil Writ Petition No. 17198 of 2005 was preferred to challenge the letter of intent on the ground that Dr. Promila was proprietor of Shweta Clinic and Maternity Home at Jhajjar and as such, was not entitled for allotment of a petrol/diesel outlet in terms of the policy drawn up pursuant to the directions of the Hon'ble Supreme Court requiring allotment of dealership/distributorship to

a full time working dealer. Dr. Promila and Indian Oil Corporation contested the writ petition. In the counter filed by her, it was stated that she would surrender her licence of medical practitioner on the stage of allotment of distributorship/dealership to her. The writ petition was, however, dismissed as pre-mature because by that time, only a letter of intent was issued.

Indian Oil Corporation having failed to find out a suitable land at location No.123 and without going into the fresh process of advertisement, identified another land at Karhans in District Panipat and issued letter of intent dated 15.7.2009 and then letter of allotment dated 23.8.2009 in favour of appellant Dr. Promila.

Raj Kumari challenged that by filing Civil Writ Petition No. 7380 of 2012 impleading Indian Oil Corporation and its Senior Divisional Retail Sales Manager and Dr. Promila as respondents.

After hearing the parties, learned Single Judge allowed the writ petition in the following terms:-

“The writ petition is allowed to this limited extent of allotment and leaving to respondents 1 and 2 to go for fresh process of allotment in the manner known to law. In such an exercise, 3rd respondent will be disqualified from participation by her once deceitful conduct, even if she agrees to surrender her licence. The petitioner will be competent to participate in the competition for allotment. The writ petition is ordered on the above terms with costs assessed against respondents 1 & 2 and respondent No.3, at ₹1 lakh

each, in two sets.”

We have heard learned counsel for the parties.

It is not in dispute that both the appellants are women from Scheduled Caste category and as such were eligible for allotment of dealership as per advertisement issued by the Indian Oil Corporation for location No. 123, near Bahalgarh NH-1, (Sonepat). It is also not in dispute that appellant Promila ranked at No.1 and Raj Kumari at No. 3 in the panel of selected candidates. The candidate at No.2 of the panel withdrew her claim. Learned counsel for the parties are also ad-idem that the advertisement issued by Indian Oil Corporation was only for location No. 123 i.e. Bahalgarh (Sonepat) and no advertisement was issued for the site at Karhans (Panipat). Thus, allotment of diesel/petrol outlet in favour of Dr. Promila at Karhans (Panipat) is evidently violative of the provisions of Article 14 of the Constitution of India as by so doing an opportunity to apply for allotment of petrol/diesel outlet at Karhans (Panipat) has been denied to those also who may be eligible and aspiring for such allotment. That being so, we do not find any illegality in the order of quashing of allotment of petrol/diesel outlet at Karhans (Panipat) in favour of appellant Dr. Promila.

Though it is not in dispute that Dr. Promila is a full time medical practitioner and is registered with Medical Council of India. In the earlier round of litigation, she had offered to surrender her licence of medical practitioner in the event of allotment of petrol/diesel outlet to her. To put it straight, by undertaking to surrender her licence of medical practitioner to secure an allotment

of a petrol/diesel outlet, Dr. Promila accepted the validity/correctness of the stipulation that such an allotment could be made only in favour of a full time working dealer. In the event of appellant Dr. Promila surrendering her licence as a Medical Practitioner prior to applying for allotment of a petrol/diesel outlet, an opportunity to participate in the process cannot be denied to her. Therefore, we set aside part of order of the learned Single Judge to the effect that Dr. Promila will not be qualified to participate in the fresh process to be initiated by the Indian Oil Corporation and modify the same by directing that in the fresh process of allotment to be initiated by Indian Oil Corporation, appellant Dr. Promila shall also be entitled to participate provided she surrenders her licence as a medical practitioner before submitting an application for the purpose.

The Letters Patent Appeals are disposed of in the aforesaid terms.

(SATISH KUMAR MITTAL)
JUDGE

(MAHAVIR S.CHAUHAN)
JUDGE

August 18,2015
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