

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

LPA No. 108 of 2015

DATE OF DECISION : 17.03.2015

Avinder Kaur

.... APPELLANT

Versus

Bharat Petroleum Corporation Limited and others

.... RESPONDENTS

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present : Mr. Amarjit Markan, Advocate,
for the appellant.

* * *

SATISH KUMAR MITTAL, J. (Oral)

Avinder Kaur, sister of deceased Malwinder Kaur (who was allotted distributorship of Bharat Gas Agency) has filed this intra-court appeal under Clause X of the Letters Patent against the order dated 02.12.2014 passed by the learned Single Judge, whereby the writ petition (CWP No. 24639 of 2014) filed by her challenging the order dated 14.10.2013 (Annexure P-1) passed by Bharat Petroleum Corporation Limited (respondent No.1 herein) keeping the issue with regard to transfer of the said gas agency in abeyance till the decision of Criminal Revision No. 1965 of 2004 filed by Jai Pal Singh (respondent No.3 herein), husband of above named Malwinder Kaur, has been dismissed.

We have heard learned counsel for the appellant and have gone

through the order passed by the learned Single Judge.

Appellant Avinder Kaur is seeking transfer of the aforesaid gas agency in her name on the ground that Jai Pal Singh, husband of deceased Malwinder Kaur, is ineligible for getting the said agency in his name, because he has been convicted for an offence involving moral turpitude. Vide order dated 15.02.2011 passed in Criminal Revision No. 1965 of 2004 filed by Jai Pal Singh, though his conviction was upheld but he was ordered to be released on probation. SLP filed by Jai Pal Singh against the said order was dismissed. The order passed in Criminal Revision No. 1965 of 2004 ordering the release of Jai Pal Singh on probation was challenged by the complainant Zora Singh before the Apex Court, which vide order dated 12.08.2013, set aside the impugned order and remanded the matter to this court for fresh hearing and the said revision petition is pending before this court. In view of this fact, the matter of transfer of gas agency from the name of Jai Pal Singh has been kept in abeyance by the respondent Corporation vide order 14.10.2013, to await the decision of the said revision petition.

The learned Single Judge, while taking note of the said fact, has upheld the said order dated 14.10.2013, while observing as under :

“I will not find any error in the approach adopted by the oil company in taking note of the fact that his own plea for being granted the benefit under the Probation of Offenders Act is still pending consideration and it has observed that the matter will be

reviewed after the decision of the High Court. It will be open for the petitioner to make whatever objections he will have after the order is passed, for, prima facie I am convinced that if there is an order giving a person the benefit of Probation of Offenders Act, Section 12 will remove the stigma in so far as it causes any disqualification for obtaining the benefit of contract of distributorship. The authority was, therefore, justified in keeping the decision in abeyance and to allow the same to be reviewed after the decision in the Civil Revision No.1965 of 2004 pending before the Court.

I will find no reason for interfering with the order already passed. It is maintained and the writ petition is dismissed.”

During the course of arguments, we have drawn the attention of learned counsel for the appellant towards Section 14 of the Hindu Succession Act, 1956, which provides for devolving of property of a female Hindu after her death. According to the provisions of the Hindu Succession Act, 1956, the appellant has no preferential right over Jai Pal Singh (husband of the deceased).

The respondent Corporation has kept the matter regarding transfer of distributorship of the gas agency in abeyance till the decision of the revision petition filed by Jai Pal Singh. If the said revision petition is accepted and Jai Pal Singh is acquitted of the charges, then there will be no embargo in his way. Thus, in our opinion, the learned Single Judge has rightly upheld the said order of the respondent Corporation.

Learned counsel argued that the appellant is aggrieved by the observations made by the learned Single Judge that if there is an order

giving a person the benefit of Probation of Offenders Act, Section 12 will remove the stigma in so far as it causes any disqualification for obtaining the benefit of contract of distributorship. This issue does not arise today. It will arise only if the aforesaid revision petition is partly allowed and Jai Pal Singh is ordered to be released on probation. In that situation, the law explained by the learned Single Judge is perfectly valid.

Therefore, we do not find any illegality in the impugned order passed by the learned Single Judge.

No merit. Dismissed.

(SATISH KUMAR MITTAL)
JUDGE

March 17, 2015
ndj

(HARINDER SINGH SIDHU)
JUDGE