

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15136 of 2016

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Abhimanyu Kumar, son of Sri Arun Kumar Singh, resident of Village-Paradih, P.S.- Keoti, District- Darbhanga.

.... Petitioner

Versus

1. The Indian Oil Corporation Ltd. having its registered office at G-9, Ali Yavar Jung Marg, Bandra (East), Mumbai through its Chairman-cum-Managing Director.
2. The General Manager, Bihar State Office, Indian Oil Corporation Ltd. (MD) at 5th Floor, Lok Nayak Bhawan, Dakbungalow Crossing, P.S.- Kotwali, Town and District- Patna
3. The Deputy General Manager (LPG), Bihar State Office, Indian Oil Corporation Ltd. (MD) at 5th Floor, Lok Nayak Bhawan, Dakbungalow Crossing, P.S.- Kotwali, Town and District- Patna.
4. The Regional Manager, Indian Oil Corporation Ltd. (MD) Indane Area Office, Begusarai, P.O.- Barauni Oil Refinery, District- Begusarai.
5. The Area Manager, Begusarai AO, Indian Oil Corporation Ltd. (MD) Indane Area Office, Begusarai, P.O.- Barauni Oil Refinery, District- Begusarai.
6. The Assistant Manager, LPG Sales, Indian Oil Corporation Ltd. (MD) Indane Area Office, Begusarai, P.O.- Barauni Oil Refinery, District- Begusarai.

.... Respondents

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Appearance :

For the Petitioner/s : Mr. P.K.Shahi, Sr. Advocate with
Mr. Alok Kumar Agrawal, Advocate

For the Respondent/s : Mr. Anil Kumar Sinha with Mr. Amlesh
Kumar Verma, Advocates

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CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
ORAL ORDER

2 14-09-2016 Heard learned counsel for the petitioner and learned
counsel for the respondent Corporation.

The petitioner seeks quashing of the letter dated 29.8.2016 issued by the respondent Corporation by which the selection of the petitioner as LPG Distributor for the location Jhanjharpur-1, District Madhubani has been cancelled and for other consequential declaration and direction.



The petitioner along with others applied for LPG Distributorship for the said location pursuant to an advertisement published in daily 'Hindustan' newspaper on 4.9.2013. Under the advertisement there was requirement for providing minimum area of 25 metres x 30 metres of land for godown and another 3 metres x 4.5 metres of land for showroom within 15 kilometres radius of the advertised location as per the Brochure and Guidelines for Selections of Regular LPG Distributorship published for 2013. Under the said Brochure the term 'own' with respect to land has been defined to mean having ownership whether title of the property or registered lease agreement for minimum 15 years in the name of applicant/family member as on the last date of submission of application as specified in the advertisement. The petitioner provided the details of two registered deeds of lease of the land both dated 1.10.2013 from the same landlord. In the draw of lots the petitioner emerged successful and thereafter when the matter was being finalized it was found that the petitioner had provided lease deed with respect to the land for which there were in existence as many as five lease deeds executed on the same date by the same landlord, including with the petitioner. The petitioner was accordingly requested by letter dated 4.9.2015 to provide details of alternative land both for showroom and godown as per the terms of the advertisement. The petitioner in his reply dated



11.9.2015 reiterated that the lands in question were as per the norms in the advertisement and the Brochure while further stating that he will provide another piece of land if the same was not found suitable. Thereafter by letter dated 28.10.2015 the petitioner was again asked to provide details of any alternative land both for godown and showroom and in his reply dated 28.11.2015 the petitioner reiterated that the land offered by him was most suitable satisfying the eligibility criteria as had been found by the committee conducting scrutiny of the application and therefore expressed his shock about the contents of the letter dated 4.9.2015 calling upon him to provide details of any alternative land for both show room and godown as per the terms of the advertisement and the Brochure for 2013 and requested the respondents to accept the same and in the alternative he was ready to provide another suitable piece of land and further requested them to issue letter of intent in his favour. Thereafter by the impugned letter dated 29.8.2016 issued by the Area Manager, Indian Oil Corporation, Begusarai the petitioner was informed that the land offered by him was also offered by other five candidates for the advertised location Jhanjharpur, District Madhubani and as per selection guidelines of 2015 it was clearly stated that the same piece of land for godown/godown or same piece of land for showroom/showroom cannot be offered by more than one



applicant for a particular location against the advertisement and in case it is found at any stage that the same piece of land for godown/godown or same piece of land for showroom/showroom has been offered by more than one applicant for the same location of the advertisement then all such applications would be rejected or if selection has been done then the same would be cancelled and accordingly it was concluded that the petitioner did not have own land as on the last date of submission of application and because of the said reason his application has been rejected. Aggrieved by the same the petitioner has filed the present writ application.

Learned counsel for the petitioner submits that the rejection of the application of the petitioner is on the ground that he has offered the same piece of plot as offered by five other candidates for the advertised location and thereafter the same has been sought to be defeated by referring the Selection Guidelines of 2015. He also submits that the selection was made as on the last date of submission of application on 7.10.2013 as per the advertisement and therefore the selection was covered not by the Selection Guidelines of 2015 but by the Selection Guidelines of 2013, which does not contain the provision which has been quoted in the impugned letter dated 29.8.2016 and thus for the said reason the impugned letter dated 29.8.2016 is fit to be quashed and set



aside.

In reply to the aforesaid contention of learned counsel for the petitioner, learned counsel for the respondent Corporation submits that although the Brochure of 2013 did not contain the words having been quoted in the impugned letter dated 29.8.2016 but it was clearly provided therein that the ownership whether by way of either title of the property or registered lease agreement with respect to the land for the purpose of the godown and the showroom has to be as on the last date of submission of application as specified in the advertisement or corrigendum, if any, and thus if five deeds of lease have been executed on the same date by the same landlord with respect to the same piece of land then it could not be said that there has been any real transfer of leasehold rights in favour of any of the so-called lessees and the registration of five lease deeds on the same date by the same landlord with respect to the same plot of land makes the lease deeds sham and fraudulent transactions. It is submitted that at best the petitioner could have argued that in case of such lease deeds being executed the lessee under the first lease deed would have leasehold rights. It is further submitted that under Section 107 of the Transfer of Property Act for a valid lease being made, the lease should be either by registered instrument or by oral agreement accompanied by delivery of possession. Thus it is submitted that



there cannot be any delivery of possession in favour of five different sets of persons by separate lease deeds on the same date and therefore in fact the same are sham and fraudulent transactions and not a real lease deed executed in favour of the petitioner.

In reply to the aforesaid stand learned counsel for the petitioner submits that other four lease deeds have been cancelled before the date of the impugned letter by the landlord, who has also informed about the same to the respondent authorities of the Corporation by letter dated 7.7.2015.

On a consideration of the facts and circumstances of the case, this Court is in agreement with the submission of learned counsel for the respondent Indian Oil Corporation. It is evident that there cannot be five different lease deeds registered with respect to the same property on the same date in view of the provisions of Section 107 of the Transfer of Property Act. Thus the execution of five different lease deeds were sham and fraudulent transactions for the purpose of ensuring that the landlord of the said land may be able to have his said land being used for the purpose of godown and showroom in case any of those five candidates succeeded in the draw of lots of the LPG Distributorship. It is true that the guidelines for 2013 did not have specific terms provided for rejection of such application if the same land has been shown as having been offered by more than



one candidate for the same advertised location but even on the basis of what was provided in the Guidelines of 2013 it is evident that the petitioner could not claim any ownership in respect of the lands in question. It cannot be held on the basis of the so-called lease deed dated 1.10.2013 produced by the petitioner that he had any ownership/leasehold rights over the said land in question on the last date for submission of the application and thus the rejection of the candidature of the petitioner does not appear to be unjustified.

For the aforesaid reasons, the writ application is dismissed.

(Ramesh Kumar Datta, J)

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