IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7944 of 2012

==

Hiralal Prasad Son of Late Dhanraj Shah At & P.O.- Mauna Bazar, P.S. Chapra, District - Saran

.... Petitioner

Versus

1. Indian Oil Corporation Ltd., having its Registered Office At G-9, Ali Yavar Jung Marg, Bandra (East), Mumbai through its Managing Director.
2. The General Manager, Indian Oil Corporation Ltd., Bihar State Office, 5th Floor, Lok Nayak Jai Prakash Bhawan Dak Bunglow Chowk, Patna - 800001
3. Deputy General Manager (LPG), Indian Oil Corporation Ltd., Bihar State Office, 5th Floor, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chowk, Patna - 800001
4. The Chief LPG Manager, Indian Oil Corporation Ltd., Bihar State Office, 5th Floor, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chowk, Patna - 800001
5. The State Retail Sales Manager (Lubes), Indian Oil Corporation Ltd., Bihar State Office, 5th Floor, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chowk, Patna - 800001
6. Area Manager, Indian Oil Corporation Ltd. (M.D.), Indane Area Office, Shahi Bhawan, 1st Floor, Exhibition Road, Patna - 800001
7. Asharphi Prasad Yadav Son of Late Ram Prasad Resident of Village - Ramnagar, P.O. Sandha, P.S. Chapra Muffasil, District - Chapra

.... Respondents

==

Appearance :

For the Petitioner : Mr. Bhubneshwar Prasad, Advocate
Mr. Sarbottam Kumar Sarkar,Advocate

For the Resp. IOCL : Mr. K.D.Chatterjee, Sr. Advocate
Mr. Amlesh Kumar Verma, Advocate

==

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 12-05-2016

Heard learned counsel for the petitioner and learned Senior Counsel for the Respondent Corporation.

2. The present writ petition has been filed for quashing the order dated 17.02.2012 (Annexure-7) passed by the respondent no. 2, the

General Manager, Indian Oil Corporation Ltd., Bihar, Patna as well as the decision contained in the letter dated 12.01.2009 of the Deputy General Manager (LPG), Indian Oil Corporation Ltd., cancelling the selection/empanelment of the petitioner for award of LPG Dealership at Chapra, District Saran as contained in Annexure-5 and 5/A respectively; and for connected reliefs.

3. Learned counsel for the petitioner submits that the impugned order dated 17.02.2012 has been passed in an arbitrary manner and on wrong assumption of facts while concluding that the petitioner had suppressed the details of family income. It is submitted that the petitioner had rightly has shown his income of his wife as nil, inasmuch as at the relevant time no rental income was received from the Punjab National Bank and an Eviction Suit had been filed by the petitioner's wife against the said bank. It is further claimed that no suppression had been made also with regard to agency income.

4. Learned senior counsel for the respondent Corporation on the other hand, submits that information was deliberately suppressed in the application and incorrect information has been supplied with regard to the family income. It is stated that pursuant to a complaint received against the selection of the petitioner as distributor, investigation was made and it was discovered that the petitioner's wife had house property which had been leased out to the Punjab National Bank which fact had not been disclosed in the application and instead the income had been declared as nil. Various certificates issued by the bank showed that the bank had paid Rs. 5,000/- per month to the petitioner's wife for the period from 1999-2000, in all

amounting to Rs. 60,000/- for the said period, but such fact had been suppressed in the application form. It was also found that the bank had paid Rs. 11,61,170/- to the petitioner's wife in settlement of dispute before the Debts Recovery Tribunal for the period 01.04.1988 to 13.02.2002, on a pro rata basis the income for the year 1999-2000 thus worked out to Rs. 83,687/-, of which not even a whisper had been made by the petitioner. The conduct of the petitioner is further evident from a letter of the Punjab National Bank informing that it had been requested not to divulge the details of the rental income.

5. Moreover, the petitioner had declared turnover from various agency businesses as Rs. 1.00 crore. When asked for details, the petitioner produced certificates from a few companies showing a total transaction of Rs. 40,174/-, but maintained complete silence with regard to other companies such as National Fertilizers Ltd., SAIL, MMTC, FCI & DMC Co. Ltd. etc. Such omission therefore amounted to clear suppression of fact and failure to make full disclosure with regard to the turnover of agency businesses.

6. Having heard the parties and on a consideration of the materials on record, this Court finds that the writ petition is devoid of merit. The Respondent Corporation made appropriate investigation pursuant to the complaint against the petitioner and discovered materials with regard to the rental income of the petitioner's wife which had not been disclosed or any particulars thereof made known in the application. The petitioner did not also come forward with full details of the turnover from the agency businesses in support of his turnover of Rs. 1 crore as

claimed in the application form, which amount he abruptly reduced to Rs. 40 lacs on being asked for details.

7. In these circumstances, the decision of the respondent Corporation can neither be termed as arbitrary nor perverse such as to warrant interference by this Court in its extraordinary writ jurisdiction, more particularly in a contractual matter of the present nature. Significantly, the stand taken by the respondent Corporation in its counter affidavit and the detailed averments therein alleging suppression by the petitioner in the application have not been controverted by the petitioner as no rejoinder to the counter affidavit has been filed.

8. In the above circumstances therefore, the writ petition stands dismissed.

(Vikash Jain, J)

Chandran

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	13.05.2016
Transmission Date	