

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1662 of 2015
IN
Civil Writ Jurisdiction Case No. 4500 of 2015**

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Ajit Kumar Tiwari, son of Sri Sachhidanand Tiwary, resident of village and Post -
Vijaynagar, P.S. - Banka, District - Banka.

.... Appellant

Versus

1. The Hindustan Petroleum Corporation Limited, 17 Jamshedji Tata Road, Mumbai - 400020, through its Managing Director.
2. The Managing Director, Hindustan Petroleum Corporation Limited, 17, Jamshedji Tata Road, Mumbai - 400020.
3. The Sr. Regional Manager, Hindustan Petroleum Corporation Ltd. Patna L.P.G. Region Office, 6th Floor, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chowk, Patna - 800001.
4. Sri Rahul Dokania son of Late Kashi Dokania resident of Aliganj, P.O. & P.S. - Banka, District - Banka.

.... Respondents

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Appearance :

For the Appellant/s : Mr. Anil Kumar Sinha &
Mr. Diwakar Upadhyaya
For the Respondent No. 4 : Mr. Shailendra Kumar
For the H.P.C.L. : Mr. Rana Randhir Singh.

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**CORAM: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA
and
HONOURABLE MR. JUSTICE ARUN KUMAR**
ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAMESH KUMAR DATTA)

Date: 14-12-2016

Heard learned counsel for the appellant, learned counsel
for Hindustan Petroleum Corporation Limited as also for the private
respondent no. 4.

2. This Letters Patent Appeal is directed against the order
dated 27.07.2015 passed by a learned Single Judge of this Court in
C.W.J.C. No. 4500 of 2015 by which the writ application filed by the



appellant has been dismissed as being devoid of merit.

3. The dispute herein relates to the appointment of regular L.P.G. distributor for Banka Urban-Rural location for which an advertisement was made on 04.09.2013. The appellant as also respondent no. 4 along with others had applied for the distributorship. In the draw of lottery, respondent no. 4 came out successful. A complaint was lodged by the appellant alleging therein that the land provided for L.P.G. godown by respondent no. 4 had overhead electric wire above it which was in contravention of paragraph 6(vii) of the Brochure containing Guidelines for Selection of L.P.G. Distributor. On the complaint of the appellant not having been taken forward by respondent no. 1, he approached this Court by filing C.W.J.C. No. 1129 of 2015 which was disposed of on 11.02.2015 on the stand of the learned counsel for the respondent Corporation that the complaint of the appellant would be verified during field verification. Thereafter by letter dated 05.02.2015 the petitioner was informed that on field verification of the land of respondent no. 4 in the light of the complaint made by the writ petitioner, it was found that there was no electric poll nor any electrical overhead wire over the said land and the complaint of the petitioner was, accordingly, closed. Aggrieved by the same, the writ application from which this appeal arises has been filed.



4. The stand of the appellant before the learned Single Judge and before us is that any defect in the application has to be seen as on the last date of filing of the application and it is submitted that the petitioner along with the complaint had annexed photographs of the land in question showing that on that date the overhead electric wire was crossing the land offered by respondent no. 4 for the L.P.G. godown, which had been got removed by respondent no. 4 in the meantime and, thus, respondent no. 4 was not eligible for the distributorship.

5. The learned Single Judge, however, relying on the stand of the respondent Corporation that during the course of field verification no live overhead wire crossing through/over the land offered by respondent no. 4 was found, held that the dispute being now raised by the writ petitioner could not be gone into in a writ petition being a disputed issue on facts.

6. The same submissions are being reiterated before this Court by the learned counsel for the appellant. We, however, do not see any reason to disagree with the view expressed by the learned Single Judge. The appellant had made a complaint with regard to the state of affairs prevailing upon the land of respondent no. 4 which could have been verified one way or the other only by visiting the spot. A mere photograph is no conclusive proof of the fact that it was



obtained on the last date of application and not much before the said date. On such complaint the only course for the respondent Corporation in the matter was to have got the physical feature of the land verified which had been done in the course of field verification and the allegation made in the complaint of the appellant was found to be false. In such circumstance, the decision taken by the respondent Corporation is un-questionable and cannot be brushed aside and the dispute over the same cannot be looked into in a writ application as rightly held by the learned Single Judge.

7. We, thus, do not find any reason to interfere with the impugned order. This appeal is accordingly, dismissed.

(Ramesh Kumar Datta, J)

(Arun Kumar, J)

Amin/-

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Uploading Date	
Transmission Date	

