

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1200 of 2014

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Birendra Kumar Manjhi, son of Late Satya Narayan Manjhi, resident of village Harpur, P.O. Harpur Karrah, P.S. Baniapur, Dist. Saran (Bihar)

.... Petitioner

Versus

1. The Bharat Petroleum Corporation Ltd. having its Registered Office at Bharat Bhawan, 4-5, Carimbhoy Road, Ballard Estate, Mumbai – 400 001, through its Managing Director.
2. The Managing Director, The Bharat Petroleum Corporation Ltd. having its Registered Office at Bharat Bhawan, 4-5, Carimbhoy Road, Ballard Estate, Mumbai – 400 001.
3. The Territory Manager(LPG), Bharat Petroleum Corporation Limited, Patna – LPG Territory & Bottling Plant, Fatuha Industrial Area, Fatuha, District Patna – 803201.

.... Respondents

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Appearance :

For the Petitioner : Mr. RAJ NARAYAN MISHRA

For the Respondents : Mr. MADHURESH PRASAD

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 11-07-2016

Heard learned counsel for the petitioner and learned counsel for the respondent Corporation.

2. The present writ petition has been filed for setting aside the decision of the respondents rejecting the candidature of the petitioner for award of LPG distributorship at Village Harpur under Baniapur Block of Saran District under the Rajiv Gandhi Grameen LPG Vitrak (for short “RGGLV”) communicated vide letter no. PT:RGGLV: (Bedauli & others) dated 20.11.2013 issued by the Territory Manager, Bharat Petroleum Corporation Limited, Patna; and further to direct the respondents to award the petitioner the distributorship having been selected on 03.01.2013 for the same.

3. The short facts according to the petitioner are that, pursuant to an advertisement dated 26.02.2012 for the award of distributorship of RGGLV, the petitioner applied for the location appearing at Sl. No. 24 under the Scheduled Caste category. The relevant columns of the advertisement read as follows :-

क्रम सं०	तेल कम्पनी	आरजीजीएलवी लोकेशन (शहर/गाँव) का नाम	ब्लॉक का नाम	जिला	श्रेणी
24.	बीपीसीएल	बेदौली, हरपुर, भगवानपुर, नदौन, चोराउआं	बनियापुर	सारण	एससी

In his application the petitioner stated the following details:-

1.	Name of the advertised location			HARPUR	
2.	Gram Panchayat			HARPUR	
3.	Rev. Distt.			CHAPRA, SARAN	
4.	State			BIHAR	
5.	Category			SC	
7.4	Indian Citizen	Yes	No	Resident of	HARPUR (Name of the village)
Revenue District				CHAPRA	
State				BIHAR	

In due course the petitioner was required to furnish some additional documents in terms of letter dated 13.08.2012, which stood complied, pursuant to which the respondents vide letter dated 11.02.2012 informed the petitioner that he had qualified for the draw for selection of RGGLV for the cluster of villages in question. The petitioner accordingly participated in the draw held on 03.01.2013 and



was selected for the distributorship. Since the matter remained dormant, some time thereafter the petitioner made enquiries and pursuant to an application under the Right to Information Act, he received a letter dated 13.11.2013 from the respondent Corporation informing him with regard to an ongoing verification of the particulars stated in the petitioner's application which had been received in response to the advertisement relating to the cluster of villages falling under Bedauli Panchayat. Soon thereafter the respondent Corporation by their impugned letter dated 20.11.2013 informed the petitioner that inasmuch as the petitioner was found to be a resident of Village Harpur under Gram Panchayat Harpur, Block Baniapur, Dist. Saran, which is a separate village and is situated away from the advertised cluster of villages, hence his candidature was rejected.

4. Learned counsel for the petitioner submits that rejection of the petitioner's candidature by the impugned letter dated 20.11.2013 is wholly arbitrary and liable to be set aside. It is submitted that the petitioner had duly fulfilled all the requisite criteria mentioned in the advertisement and no part of his application has been found to contain any inaccurate particulars. The advertisement had invited applications from persons residing within any of the five named villages of Baniapur Block namely, Bedauli, Harpur, Bhagwanpur, Nadaun and Chorowan and there was no mention of Bedauli Panchayat in the advertisement though subsequently referred to in the respondent



Corporation's letter dated 13.11.2013. It is further submitted that the petitioner's village Harpur, Thana No. 110, falls within a distance of a mere five kms from Bedauli Panchayat which fact was supported by a certificate dated 17.12.2014 from the Mukhiya of Harpur Panchayat. A further certificate from the Mukhiya of Manikpura Panchayat discloses that there were two Harpur villages around Bedauli Panchayat and that the distance of Harpur village falling under Manikpur Panchayat was at a greater distance of 7 kms from Bedauli Panchayat. It is therefore submitted that even if the respondents had intended to refer to Harpur village under Manikpur Panchayat, Thana No. 60, as a matter of fact, such village was not adjacent to the remaining four villages mentioned in the advertisement and hence would not have formed part of a cluster of villages. For this purpose, the petitioner has placed reliance on a map of Baniapur circle as contained in Annexure-10. The petitioner has relied on yet another letter No. 478 dated 04.02.2016 issued by the Sarpanch of Gram Kachahari, Bedauli which states that Bedauli Panchayat comprises of five villages - Bedauli, Bhagwanpur, Nadaun, Chorowan and Harshpur and that there was no village by the name of Harpur within Bedauli Panchayat.

5. Learned counsel for the respondent Corporation on the other hand submits that the petitioner has not approached this Court with clean hands, having disclosed particulars ambiguously in his



application with the intent of taking undue advantage of the advertisement though not entitled to apply thereunder. It is well known that advertisements are issued in respect of either individual villages/towns or for a cluster of villages named together as one location. The application form required the petitioner to state "name of the RGGLV location" which according to the advertisement was "Bedauli, Harpur, Bhagwanpur, Nadaun, and Chorowan", but the petitioner deliberately stated only the name of Harpur. The petitioner was well aware that the advertisement was meant for a cluster of villages and this fact was made known to him by the respondent Corporation's letter dated 11.12.2012 itself (Annexure-5) which was never objected to by the petitioner, nor even when this fact was informed by the Corporation by letter dated 13.11.2013 (Annexure-6) that such cluster of villages related to Bedauli Panchayat. It is submitted that the respondents have acted bonafide and on the basis of Government records according to which the five villages in question namely, Bedauli, Harpur, Bhagwanpur, Nadaun, and Chorowan together comprise Bedauli Panchayat. This was evident from Sl. Nos. 111 to 115 of the list downloaded from the official website (Annexure-B), which further disclosed that the village Harpur falling under Harpur Panchayat to which the petitioner belongs found place at Sl. 141 of the said list of villages and was situated at a distance from Harpur village falling under Bedauli Panchayat.

6. Learned counsel for the respondents further submits that the claim of the petitioner would defeat the intent and purpose of



RGGLV, the very object of which is to enable the local residents of the area to avail of the supplies from the Corporation virtually at their doorstep. Admittedly, the petitioner's village falling under Harpur Panchayat is at a distance of five kilometers away which cannot sub-serve the needs of the cluster of villages advertised. It is pointed out that there is slight variation in the spelling of the name of the village Harpur as appearing at Sl. No. 114 in the list of villages downloaded from the website (Annexure-B) as compared with the name mentioned as Haripur, Thana No. 54 as appearing in the map of Baniapur Circle (Annexure-10). It is submitted that a matter of fact the village Haripur Thana No. 54 falls adjacent and adjoins the village Chorowan and if the same be read as Harpur village, it forms a cluster of five villages within Bedauli Panchayat. Evidently therefore, the present writ petition is an attempt on the part of the petitioner to take advantage of a minor variation in spelling of the name of village Harpur to claim a right for award of the distributorship for the advertised location in question.

7. Having heard the parties and on a careful consideration of the materials on record, this Court finds that the issue raised involves determination of a disputed question of fact with regard to identification of the particular Harpur village to which the advertisement relates. While on the one hand the petitioner claims to have satisfied the requirement of the advertisement on the basis of which he was selected, it is contended on behalf of the respondent Corporation that such selection was subject to field verification and the petitioner did not satisfy the requirement of the advertisement as the

village Harpur to which he belongs does not Form part of a cluster of villages covered within the advertisement. This Court is of the view that such a disputed question cannot be decided by this Court in its extraordinary writ jurisdiction and as such this Court is not inclined to interfere in the matter.

8. The writ petition accordingly stands dismissed and the I.A. No. 2710 of 2014 challenging the fresh draw held by the respondents on 10.02.2014 also stands disposed. The petitioner shall be at liberty to seek redressal of his grievances before any appropriate forum as may be available to him in accordance with law. It is made clear that this Court has not expressed any opinion on the merits of the matter.

(Vikash Jain, J)

Chandran

AFR/NAFR	NAFR
CAV DATE	-
Uploading Date	11.07.2016
Transmission Date	-