

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.20130 of 2014

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Uday Kumar, son of Sri Rajendra Manjhi, resident of Village - Baraki Dhawari,
P.O. - Sarami, Police Station - Baniyapur, District Saran at Chapra.

.... Petitioner

Versus

1. The Managing Director, Bharat Petroleum Corporation Ltd. Registered Office
Bharat Bhawan, 46 Curimbhoy Road Ballard Estate Post Box No. 688, Mumbai Pin
Code 400001, Maharashtra.
2. The Territory Manager (LPG) Patna, LPG Territory & Bottling Plant, Fatuha
Industrial Area, Mouza Raipura, P.S. - Fatuha, District- Patna 803201, Bihar.

.... Respondents

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Appearance :

For the Petitioner : Mr. Yogesh Chandra Verma, Sr. Advocate
Mr. Krishna Deo Raj, Advocate

For the Respondents : Mr. Madhuresh Prasad, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 15-03-2016

The present writ petition has been filed for quashing the letter dated 16.08.2014 issued under the hand of Territory Manager (LPG) Patna LPG Territory Bottling Plant Fatuha Industrial Area, Fatuha, Patna Bihar whereby the candidature of the petitioner has been rejected; for quashing of the letter dated 07.11.2014 whereby the candidature of the petitioner has not been considered; and for connected reliefs.

2. Mr. Yogesh Chandra Verma, learned senior counsel appearing on behalf of the petitioner, submits that against the rejection of the petitioner's candidature for appointment of LPG distributorship in terms of the letter dated 16.08.2014, the petitioner had moved this Court in CWJC No. 16077 of 2014. The said writ petition was



disposed of by order dated 17.09.2014 and even though this Court did not interfere in the matter, the petitioner had been granted liberty to pursue his remedy by way of representation. It is submitted that a representation had been filed on 20.08.2014 with all required documents in support of his claim that the lessor was in absolute possession of the aforesaid land and a further representation was also despatched by registered post on 26.08.2014. The same, however, had not been entertained and the respondent-Corporation once again rejected the claim of the petitioner in its letter dated 07.11.2014 on the ground that the offered land of the petitioner had been acquired on lease from a person, who did not have clear title to the offered land. It is submitted that after death of the lessor's father, the lessor had become owner of the said land in his capacity as the son/successor.

3. Learned counsel for the respondents, on the other hand, opposes the writ petition submitting that the earlier rejection letter dated 16.08.2014 had already been made subject matter of CWJC No. 16077 of 2014, in which this Court had not interfered. It is, therefore, now not open to the petitioner to raise the same issue over again in the present writ petition. As far as challenge to the subsequent rejection vide letter dated 07.11.2014 is concerned, the same is valid as the situation has not materially altered and the revenue receipts admittedly having been issued in the names of Yodha Prasad and

Nand Prasad clearly showed that the lessor, Prabhu Narayan Prasad, did not have clear title to the offered land.

4. Having heard the parties and on careful consideration of the materials available on record, this Court finds the writ petition to be devoid of any merit. The petitioner cannot be permitted to challenge the letter dated 16.08.2014 which had already been made the subject matter of CWJC No. 16077 of 2014 which was withdrawn by the petitioner in view of this Court not being inclined to interfere in the matter. The relief sought against the order dated 16.08.2014 must therefore be rejected in limine.

5. As regards the challenge to the letter dated 07.11.2014, the petitioner has failed to satisfy this Court that there is any material change in the situation since the earlier rejection of the petitioner's candidature. It was for the petitioner to demonstrate clear title in the lessor from whom the offered land had been obtained by the petitioner on lease. The documents enclosed with the writ petition themselves did not prima facie establish that the lessor Prabhu Narayan Prasad, who had executed the lease deed dated 20.06.2012 in favour of the petitioner had acquired title to the land in question inasmuch as the revenue receipts were admittedly issued in the names of Yodha Prasad and Nand Prasad. This Court has observed in the case of *Anil Kumar Singh Vs. HPCL and others* [2013(3) PLJR 512] that "the Corporation

can never be expected to take a risk of entering into litigation with the owner of the land”.

6. If the aforesaid documents produced by the petitioner could not inspire confidence in the mind of the respondent-Corporation with regard to the clear title of the lessor, no fault can be found with the impugned letter dated 07.11.2014 rejecting the candidature of the petitioner.

7. The writ petition accordingly stands dismissed.

(Vikash Jain, J)

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