

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1887 of 2015
Arising out of
Civil Writ Jurisdiction Case No. 19793 of 2014

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Audhar Kumar, son of Sri Arun Kumar Choudhary, Professor Colony, Dighi West,
Darbhanga, District Darbhanga.

.... Appellant

Versus

1. Bharat Petroleum Corporation Limited through the Chairman, Bharat Bhawan, 486, Currimbhoy Road, Ballard Estate, Post Box No. 688, Mumbai 400001.
2. The Chairman Bharat Petroleum Corporation Limited, Bharat Bhawan, 4&6, Currimbhoy Road, Ballard Estate, Post Box No. 688, Mumbai 400001.
3. The Territory Manager (LPG), Patna LPG Territory & Bottling Plant, Fatuha Industrial Area, Patna 803201.

.... Respondents

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Appearance :

For the Appellant : Mr. Rakesh Chandra, Advocate
Mr. Amit Pandey, Advocate.
For the Respondents : Mr. Madhuresh Prasad, Advocate.
Mr. Abhay Shankar 2, Advocate.

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CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 18-04-2016

Heard learned counsel for the appellant and the respondents.

2. The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 26th of August, 2015 in C.W.J.C. No. 19793 of 2014, whereby a writ application filed by the appellant challenging the cancellation of candidature of the appellant for allotment of L.P.G. Distributorship remained unsuccessful.

3. The respondent issued an advertisement for appointment of L.P.G. Distributors. The Brochure on Guidelines for Selection of Regular

L.P.G. Distributors (Annexure-7) is appended with the writ application.

The following conditions as reproduced below are relevant for the purposes of deciding the present appeal:-

“7.1.Common Eligibility Criteria for all Categories applying as Individual

The applicant should

XXX XXX XXX XXXX

iv. Fulfil Multiple dealership/distributorship norm as under:-

Multiple Dealership/Distributorship norms means that the applicant or any other member of ‘family unit’ should not hold a dealership/distributorship/RGGLV or Letter of Intent (LOI) for a dealership/distributorship/RGGLV of a PSU Oil Company i.e. only one Retail Outlet/ SKO-LDO dealership/ LPG distributorship/RGGLV of PSU Oil Company will be allowed to a ‘Family Unit’.

‘Family Unit’ in case of married person/applicant, should consist of individual concerned, his/her Spouse(s) and their unmarried son(s)/daughter(s). In case of unmarried person/applicant, ‘Family Unit’ shall consist of individual concerned, his/her parents and his/her unmarried brother(s) and unmarried sister(s). In case of divorcee, ‘Family Unit’ shall consist of individual concerned, unmarried son(s)/unmarried daughter(s) whose custody is given to him/her. In case of widow/widower, ‘Family Unit’ shall consist of individual concerned, unmarried son(s)/unmarried daughter(s).

v. Have minimum total amount of Rs. 15 lakhs for Urban Markets and Rs. 10 lakhs for Urban-Rural & Rural Markets respectively **as on the date of application.** This amount is to be arrived at by adding amount in Savings Bank accounts in Scheduled Bank/Post Office, free and un-encumbered Fixed Deposits in Scheduled Banks, Post Office, Listed Companies/ Government Organization/ Public Sector Undertaking of State and Central Government, Kisan Vikas Patra, NSC, Bonds, Shares of Listed Companies, Listed Mutual Funds,

ULIP, PPF, Surrender Value of Life Insurance policies in the name of Applicant or family members of the ‘Family Unit’ of the Applicant as defined above. In case of locations reserved under ‘SC/ST’ category, minimum total amount as on the date of application should be Rs. 5 lakhs for Urban Markets and Rs. 2.5 lakhs for Urban-Rural & Rural Markets respectively.”

4. In pursuance of such conditions, the appellant applied for L.P.G. Distributorship giving the following amount standing to his credit :-

11	AMOUNT IN SAVINGS BANK ACCOUNT IN SCHEDULED BANK/ POST OFFICE as on the date of application in the name of applicant and members of 'family unit'. Attach notarized affidavit as per format given in Appendix-2 from member(s) of 'family unit'.														
S.N	Name of Bank	S. B. A/C No.	Name of account holder (s)	Relation with applicant	Amount as on date of application										
1	ICBI BANK	52310400001985	Audhar Kumar	Self	₹	8	3	1	7	6	2	-	0	0	
2	Post Office	Encl. Attached	Audhar B. Arora	Self-Father	₹	3	8	5	2	5	0	-	0	0	
3	Post Office	Encl. Attached	Raj. Singh, Asim	Brother	₹	2	3	0	1	0	5	-	0	0	
4	Post Office	Encl. Attached	Pr. Suresh Ch. Singh	Wife, Son	₹	7	3	5	0	0	-	0	0	0	
5	REDA BANK	634	Audhar Kumar & Asim	Self & Son	₹	5	6	0	0	0	-	0	0	0	
TOTAL					₹	1	9	7	6	0	1	7	-	0	0
Total amount in words. NINETEEN LAKS SEVENTYSIX THOUSAND SEVENTEEN.															

5. After receipt of the applications of the eligible candidates, a Draw of Lots was conducted in which the appellant was successful. But before issuance of the allotment, field verification of the eligible candidates was carried out in which it was found that the minimum total amount of the appellant was Rs. 3,83,876/-, thus, the candidature of the appellant was rejected. Aggrieved against the rejection of his candidature, the appellant invoked the writ jurisdiction of this Court, which remained unsuccessful.

6. Learned counsel for the appellant vehemently argued that the account, as reflected in Column No. 11, reproduced above, are the joint



accounts of the appellant with his father and brother. Therefore, such amount cannot be excluded from consideration. It is also argued that even if the amount standing in the accounts of his brother and father is excluded, still the total comes out more than Rs. 10 lakhs, therefore, his candidature could not have been cancelled. It is also argued that his candidature has been cancelled without giving him an opportunity of hearing, which affects the civil rights of the appellant.

7. We have heard learned counsel for the parties and find no merit in the present Letters Patent Appeal.

8. Firstly in respect of the plea that there is violation of principles of natural justice, suffice it to say that no letter of allotment was issued pursuant to an application for allotment of L.P.G. Distributorship submitted by the appellant. Mere draw of lots will not confer any right in favour of the appellant. Before issuance of letter of allotment, the field verification was done and the accounts of the appellant were found to be not of the family unit, as advertised in the brochure; such as the account of the father and brother. Though some of the accounts are joint with the appellant but the joint accounts are not permissible outside the family unit in terms of Condition No. (v) of the brochure, as reproduced above. The amount has to be of the applicant or the family members of the family unit, as defined in Clause 7.1(iv), as reproduced above. Therefore, the joint account of the appellant with father or brother is not of an account of the

family member which could be taken into consideration in case of a married applicant such as the appellant who has applied for dealership in the rural market. Since the appellant does not satisfy the basic condition of the sources of more than Rs. 10,00,000/-, therefore, he has been rightly not considered to be eligible for allotment of L.P.G. Distributorship. The amount standing in the joint account, if excluded, is less than Rs. 10,00,000/-.

9. In view thereof, we do not find any error in the order passed by the leaned Single Bench which may warrant interference in the present intra court appeal.

10. The Letters Patent Appeal is, thus, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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