

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5841 of 2013

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Saiyed Reyaz Ahmad, son of Saiyed Babu Hussain, Resident of Village - Ahwar
Shekh, P.O. Alamganj Bazar, P.S. Majhawliya, District - West Champaran
..... Petitioner

Versus

1. Bharat Petroleum Corporation Ltd., Ashiana Chamber, 4th Floor, Exhibition Road, Patna
2. The Regional Manager, Bharat Petroleum Corporation Ltd., Regional Office, Ashiana Chamber, 3rd Floor, Exhibition Road, Patna
3. The State Co-ordinator, Bharat Petroleum Corporation Ltd, Patna
4. Manoj Kumar, son of Baidya Nath Prasad, Resident of Village Pakaria, Tola Bharatpur, P.S. Nautan, Jagdishpur, District - West Champaran
5. Arsia Naz, daughter of Syed Nisar Ahmed, resident of Village Ahwar Jhaka, P.S. Majhawalia, District - West Champaran.

..... Respondents

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Appearance:

For the Petitioner :	Mr. Siya Ram Shahi, Advocate
	Mr. Sunil Sharma, Advocate
For the Respondent :	Mr. Sanjay Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 27-10-2016

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

2. The present writ petition has been filed for quashing/ setting aside the selection of private respondent no. 4, who has been selected to run the retail outlet of Ahbar Juekh location and also to quash the letter of intent issued in favour of respondent no. 4; and for directing the respondent Corporation to initiate the selection and evaluation process afresh.

3. Learned counsel for the petitioner submits that pursuant to verification made by the respondent Corporation and in view of



cancellation of the 'no objection certificate' dated 16.03.2013 by the District Magistrate, East Champaran, the candidature of the respondent no. 4 stood cancelled. In that view of the matter, it is submitted that instead of awarding the letter of intent in favour of respondent no. 5, who was the next empanelled candidate in the merit panel, the Corporation ought to have re-advertised for award of the retail outlet dealership in question afresh. Reliance is placed on the decisions of the Apex Court in *State of Punjab vs. Raghbir Chand Sharma and Anr.*, AIR 2001 Supreme Court 2900; and *Kishan Chand vs. the State of Haryana*, AIR 2013 Supreme Court 357.

4. Learned counsel for the respondent Corporation, on the other hand, submits that the letter of intent has rightly been issued in favour of the respondent no. 5, which is in accordance with procedures laid down in Clause 16(c) of the brochure.

5. Having heard the parties and on careful consideration of the materials on record, this Court finds the writ petition to be devoid of merit. It is not in dispute that the petitioner having applied for the retail outlet dealership, was subject to the terms and conditions enumerated in the brochure of the respondent Corporation. It is also not in dispute that Clause 16(c) of the said brochure contemplated that in the event of cancellation of selection of a candidate, the letter of intent would be issued to the second candidate in the merit panel as has been done in the present case. The procedure contemplated under the brochure has thus been

followed and binds the petitioner who cannot turn around to question the same, having applied thereunder and being placed at sl. 3 of the merit panel. It is further noted that even though the letter of intent was awarded in favour of respondent no. 5 after cancellation of the candidature of respondent no. 4, the petitioner has not made any prayer for quashing thereof and the prayer in the writ petition remains confined to the challenge in respect of selection of respondent no. 4 which is now infructuous. The decisions relied on by learned counsel for the petitioner have been rendered in the context of appointments and would not have application in cases of the present nature dealing with contractual rights and obligations of the parties governed by commercial considerations.

6. In the above view of the matter, the writ petition stands dismissed.

7. It is made clear that the present judgment shall not stand in the way of the petitioner in challenging the letter dated 27.11.2015 (Annexure R-1/A) issued by the respondent Corporation in favour of the respondent no. 5, if so advised, before the appropriate forum in accordance with law.

(Vikash Jain, J)

Chandran/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
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