

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1238 of 2015

Arising out of

Civil Writ Jurisdiction Case No. 17075 of 2014

=====

Anjum Kaiffee, son of Late Abdul Kalam, Resident of Jamharia, Police Station-Dhamaul, Town and District- Nawada.

.... Appellant/s

Versus

1. Indian Oil Corporation Ltd., through its Chairman cum Managing Director, G-9, Ali Yavar Jung Marg, Bandra, (East) Mumbai 400051.
2. Indian Oil Corporation Ltd., (Marketing Division) through its General Manager, Lok Nayak Jai Prakash Bhawan 5th, Floor, Dak Banglow Chowk, Patna.
3. Chief Manager, Indian Oil Corporation Ltd., (Marketing Division), Abhay Bhawan, Dak Banglow Chawk, Patna.
4. Dy. General Manager, Indian Oil Corporation Ltd., (Marketing Division), Lok Nayak Jai Prakash Bhawan, 5th Floor, Dak Banglow Chawk, Patna.
5. Collector, Nawada.
6. A.D.M., Nawada.
7. Sri Ram Pal Mahto, Circle Ameen, Hisua, District- Nawada.
8. Sri Astik Narayan S/o Sri Jai Prakash Narayan, R/o Main Road Pakribarawan, District- Nawada.

.... Respondent/s

=====

Appearance:

For the Appellant/s : Mr. Raghib Ahsan, Sr. Advocate.
Mr. Atif Inam, Advocate.

For IOC : Mr. Anil Kumar Sinha, Advocate.
Mr. Amlesh Kumar Verma, Advocate.

For the State : Ms. Aditi Hansaria, AC to GA-1.

=====

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 27-10-2016

Heard learned counsel for the parties.

2. The challenge in the present Letters Patent Appeal is to an order passed by the learned Single Bench of this Court on 13.10.2014 in C.W.J.C. No. 17075 of 2014 whereby, the challenge to allotment by Indian Oil Corporation of a retail outlet (Petrol Pump)

dealership under “open category” was not interfered with.

3. The challenge to the allotment of retail outlet dealership is on the ground that the frontage of the site is less than 35 meters and, thus, not suitable in terms of the conditions in the advertisement published in September, 2011.

4. Admittedly, the report (Annexure-9) of the Anchal Amin of Hasua Anchal was produced by the Respondent No. 8 to the Indian Oil Corporation while applying for retail outlet dealership, in which the frontage has been shown as 35 meters.

5. The grievance of the appellant is that such report is incorrect and that though the Additional District Magistrate, Nawada has accepted the said report to be correct but it is uncalled for. The appellant pleaded as under in the writ application:

“20. That petitioner has learnt that A.D.M. Nawada vide his letter no. 19 dated 08.09.2014 has informed the Dy. Manager I.O.C. Ltd. that the report of respondent no.7 circle amen Hisua dated 17.12.13 is correct.

21. That the petitioner having come to know of the fact that A.D.M Nawada has submitted his report justifying measurement report of circle amen Hisua dated 17.12.13, submitted representation dated 11.09.2014 to the General Manager I.O.C. Ltd. Patna stating therein that no cognizance on letter no. 27 dated 08.09.14 of A.D.M. Nawada should be taken since it was

uncalled for, unwarranted and without jurisdiction. The report was called for from D.C.L.R Nawada who did not submit any report till date. Petitioner requested that the entire matter should be reported to collector Nawada and a records should be called for in this regard.”

6. The assertion of the appellant is that the frontage is 33.6 meters which does not conform to the required measurements, but no document was attached with the writ application to support such assertion. But a report dated 05.06.2015 submitted to Deputy Director, Bihar Survey Office, has been attached with the present Letter Patent Appeal. A perusal of the said report does not show the purpose for which it was submitted to the Bihar Survey Office, the information of which was obtained by the appellant under the Right to Information Act.

7. In view of the documents produced by the selected candidate and verified by the Revenue officials, the frontage is 35 meters which conforms to the conditions of the advertisement. There is no other document produced by the appellant before the authorities or before the writ court whereas, the only report submitted is much after the allotment supplied to the appellant by the Bihar Survey Office on the basis of the report submitted by Chote Lal Prasad, *Amin*. We do not find that such report can be relied upon to come to a conclusion that the frontage of the plot in question is less than 35

W
NO

meters. The *Anchal Amin*, Hasua in his report (Anenxure-9) has given measurements as that of 35 meters. Such report has been found to be correct by the Additional District Magistrate. Thus, there is a reasonable basis for the Indian Oil Corporation to act on the said report for allotment of retail outlet dealership. The report now has been produced of Plot No. 930. Such report, which is unconnected with the process of allotment, cannot be made basis for setting aside the allotment of retail outlet dealership.

8. We do not find any ground to interfere in the present Letters Patent Appeal. The Letters Patent Appeal is, thus, dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

Mishra/-

AFR/NAFR	N.A.F.R.
CAV DATE	N.A.
Uploading Date	29.10.2016
Transmission Date	