

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.20112 of 2014

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Shashi Bhushan Yadav, Son of Shiv Kumar Yadav, resident of village - Majhaura,
P.S. - Raj Nagar, District - Madhubani

.... Petitioner

Versus

1. The Union of India through Addl. Secretary, Petroleum and Natural Gas Department, Government of India, New Delhi
2. The Addl. Secretary, Petroleum and Natural Gas Department, Government of India, New Delhi
3. The Indian Oil Corporation Ltd. through its Managing Director, G-9, Ali Yavar Jung Marg, Bandra (East), Mumbai-400 051
4. The Managing Director, Indian Oil Corporation Ltd., G-9, Ali Yavar Jung Marg, Bandra (East), Mumbai-400 051
5. The District Magistrate (L.P.G.-S), Bhagalpur, District - Bhagalpur
6. The Area Manager, Indian Oil Corporation Ltd. (M.D.), Indian Area Office, Begusarai, P.O. - Barauni Oil Refinery, District - Begusarai (Bihar) 851114
7. The Control Vigilance, Vigilance Bhawan, Block of G.P.O. Complex INA, New Delhi-110023
8. Dy. General Manager (Vigilance), M/s Indian Oil Corporation Ltd., Indian Oil Bhawan, Gariya Hat Road Dhakhuria, Kolkata - 700068
9. Smt. Rani Devi Wife of Amar Nath Thakur, Resident of Village - Pachdahi, P.S. - Raj Nagar, District - Madhubani

.... Respondents

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Appearance :

For the Petitioner : Mr. Deo Narain Yadav, Advocate
For the Union of India : Mrs. Kanak Verma, CGC
For the IOCL : Mr. Anil Kumar Jha, Sr. Advocate
Mr. Sanat Kumar Mishra, Advocate
For Respondent No.9 : Mr. T.N. Matin, Sr. Advocate
Mr. Manish Kumar No. 13
Mr. Rohit Kumar, Advocates

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 11-02-2016

The present writ petition has been filed for a direction
to the respondents to enquire into the complaint dated 24.12.2013
filed on behalf of the petitioner with regard to the irregularities
committed in the allotment of the distributorship under Rajiv Gandhi
Gramin LPG Vitrak (for short, "RGGLV") Scheme in favour of

respondent no. 9 on the basis of false declaration of her date of birth; as well as against letter dated 14.07.2014 (Annexure-5) issued by the respondent-Indian Oil Corporation Limited (for short, "Corporation").

2. I. A. No. 3533 of 2015 has been filed for amendment of the prayer in the main writ petition for quashing the investigation report dated 02.03.2015 (Annexure-6) by which the petitioner's complaint was found to be not substantiated. It has also been prayed for directing the respondents to make further impartial investigation in the matter, as well as for cancellation of allotment of the distributorship in favour of the respondent no. 9.

3. Having regard to the nature of the prayer, I.A. No. 3533 of 2015 is allowed. The petitioner is permitted to amend the relief portion in the writ petition to the extent enumerated in paragraph 1 of the said interlocutory application.

4. Learned counsel for the petitioner, Mr. Deo Narain Yadav, submits that material irregularities have been committed in the allotment of distributorship under the RGGLV scheme for location *Pachdahi, Bhatssimar, Ladoogaon, Badhmotra, Majhaura, District Madhubani* in favour of respondent no. 9 and for which the petitioner had filed complaint dated 24.12.2013. It is submitted that pursuant to the public notice, the petitioner, and so also the respondent no. 9, applied for allotment of distributorship of LPG but the respondent-



Corporation accepted the application of respondent no. 9 who had supplied a forged date of birth, as on the date of application she was more than 45 years of age and thus she was beyond the zone of consideration for general category applicants. In support of his contention, the petitioner submitted voter list of Election of Legislative Assembly in the year 2012 in which the age of respondent no. 9 was mentioned as 44 years. The petitioner further relied on the voter list of 1995 as well as the voter list of 2014. The petitioner also brought on record a certificate issued by the Headmaster of the Government Basic School certifying that the date of birth of Amit Kumar, son of Amar Nath Thakur (husband of the respondent no. 9) as per the entry in the school register was 02.01.1992. It is, therefore, contended that if the date of birth of respondent no. 9 claimed as 20.02.1988 were to be accepted, then that would result in a difference of only 4 years between her age and the age of Amit Kumar. It is, accordingly, submitted that the matriculation certificate of respondent no. 9 was on the face of it false and she was not entitled to the distributorship by reason of being overage. Reliance is also placed on the certificate dated 12.03.2015 obtained from the Sarpanch Gram Kuchhari, Bhatsimar, Purvi, Rajnagar, Madhubani (Annexure-8) which indicated that Rani Devi was the wife of Sri Amar Nath Thakur and the latter had never solemnized any other marriage, thus inferring

that the respondent no. 9 is the natural mother of Amit Kumar who was born in 1992.

5. Learned senior counsel for the respondent-Corporation, Mr. Anil Kumar Jha, vehemently opposes the stand of the petitioner, submitting that no fault can be found with the respondent-Corporation in awarding the distributorship to the respondent no. 9. The allegation levelled by the petitioner with regard to forged documents pertaining to the date of birth of respondent no. 9 has no basis whatsoever, which remains a mere assertion in absence of any material to establish forgery. It is further submitted that Serial No. 7 of the General Conditions appended to the application form prescribed in the advertisement (Annexure-1) specifically provides that an applicant would be required to produce the Board's certificate of Class X standard, birth certificate, passport or PAN Card for verification of date of birth. It is, therefore, submitted that these are the only documents contemplated in the advertisement for validation of the date of birth stated in the application form and the respondent-Corporation cannot travel beyond such documents during the Field Verification. In the instant case, the respondent no. 9 furnished her matriculation certificate issued by the Bihar Sanskrit Shiksha Board wherein her date of birth was mentioned as 20.02.1988. The matter was further got verified in the backdrop of the petitioner's complaint.



The said Board in its letter dated 22.05.2014 once again confirmed the issuance of the said matriculation certificate showing the date of birth of respondent no. 9 as 20.02.1988. An affidavit was also obtained from the respondent no. 9 which reiterated her date of birth as being 20.02.1988. It is, accordingly, submitted that neither the school certificate of Amit Kumar, who is said to be the step-son of the respondent no. 9, nor the voter lists relied upon by the petitioner, can be considered by the respondent-Corporation. It is pointed out that no doubt, when the Investigating Officer visited the Election Office, Madhubani, the voter list for the year 1995 was found genuine as contended by the petitioner, but that does not mean that each and every entry and the particulars contained in the voter list were certified to be genuine. In other words, the voter list might well contain some factual errors but that would not detract from the fact that the voter list itself would remain genuine.

6. Learned senior counsel appearing for the respondent no. 9, Mr. T. N. Maitin has also been heard, who substantially reiterates the submissions made on behalf of the respondent-Corporation. He specifically invites attention to paragraph 11 of the counter affidavit filed on behalf of the respondent no. 9 which categorically states that “Amit Kumar Thakur is not her own son but he is her step son because of the fact that after the death of the first wife of her husband

she married to Amar Nath Thakur and the said son is from the first wife. It is further humbly submitted that she was married with Amar Nath Thakur on 02/02/2006.”

7. Having heard the parties and on careful consideration of the materials available on record, this Court is of the view that the respondent-Corporation cannot prima facie be said to have acted arbitrarily as might warrant interference by this Court in its extraordinary writ jurisdiction. It has rightly proceeded to dispose of the petitioner's complaint and caused enquiry to be made for verification of the date of birth of respondent no. 9. If it restricted itself to such verification with reference to the matriculation certificate of the respondent no.9, such action was within the parameters of the authority as adumbrated in the general guidelines of the prescribed format of the application form in terms of the advertisement. The petitioner cannot be heard to raise an objection with reference to the verification made of the Sanskrit Shiksha Board for ascertaining the genuineness of the Matriculation certificate of the Respondent No. 9, as the petitioner himself must have been fully aware of the category of documents admissible for verification and proof of age, which was specified in the advertisement itself.

8. This Court is also of the view that the nature of the dispute as well as the contentions raised on behalf of the parties, necessarily

involve disputed questions of fact which cannot be gone into by this Court in its extraordinary writ jurisdiction. Whether or not Sri Amit Kumar Thakur is the natural son or the stepson of the respondent no. 9 is a question which requires to be resolved with reference to the evidences which would have to be led by the parties. Similarly, the petitioner accepts that the certificate of the Sarpanch dated 12.03.2015 on which reliance has been placed, was not produced before the respondent-Corporation and hence, the same constitutes fresh material which this Court is not inclined to entertain in the first instance. Even the materials being relied upon by the respective parties are prima-facie conflicting, and cannot be resolved summarily before this Court.

9. In the above view of the matter, therefore, this Court is not inclined to interfere in the matter and the writ petition stands dismissed. It is made clear, however, that the petitioner shall be at liberty to seek redressal of his grievances before any appropriate forum as may be available to it in accordance with law, and in that event, the matter may be decided on its own merits without being influenced by any of the observations herein.

10. Let the original records of the Indian Oil Corporation be returned forthwith.

(Vikash Jain, J)

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