

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.6567 of 2011

Bindeshwari Pathak, S/O-Late Nand Kishore Pathak, resident of Village &P.O.-
Dunhi, P.S.-Garhpura, Dist-Begusarai.

.... Petitioner/s

Versus

1. Indian Oil Corporation Ltd., Chairman-Cum-Managing Director, G-9, Ali Yavar Jung Marg, Bandra (East), Mumbai-400051
2. General Manager Indian Oil Corporation Ltd. 5th Floor Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chowk, Patna
3. Senior Divisional Retail Sales Manager, Indian Oil Corporation Ltd., Marketing Division, Begusarai Divisional Office P.O- Barauni Oil Refinery, Begusarai.
4. Sri Amrendra Kumar Roy, S/O-Late Hari Nandan Roy, resident of Village+P.O- Korai, P.S- Garhpura, Dist-Begusarai

.... Respondent/s

Appearance :

For the Petitioner : Mr. Ajit Kumar, Adv.
Mr. Shailendra Kumar, Adv.
For the IOCL : Mr. Anil Kumar Sinha, Adv.
Mr. Amlesh Kumar Verma, Adv.
Mr. Amrit Katriar, Adv.

CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL JUDGMENT

Date: 08-03-2016

Heard learned counsel for the petitioner and the respondents.

2. The present writ petition has been filed for quashing the decision of the respondent Indian Oil Corporation Ltd. (for short, “IOCL”) on production whereby and whereunder Kisan Seva Kendra Dealership at Village- Korai, Begusarai has been awarded in favour of respondent no. 4, said to have been done on the basis of marks obtained by different candidates at the interview held on 05.03.2011; and to award the dealership of petrol pump in favour of the petitioner.



3. The brief facts of the case are that pursuant to advertisement for appointment of Kisan Seva Kendra Dealership by the Indian Oil Corporation Limited (for short, "IOCL"), the petitioner submitted his application on 29.12.2006 and appeared before the Selection Committee on 16.02.2009 as required. The petitioner was placed at serial no. 2 in the shortlist of candidates published on 16.02.2009, wherein the respondent no. 4 stood at serial no. 1. Being aggrieved, the petitioner filed a complaint before the IOCL stating that the respondent no. 4 had suppressed the fact of a culvert existing on his land and sought rejection of his application. A further complaint dated 14.03.2009 was also filed with documents in support of his complaint, which was investigated and the culvert was found to be existing in front of the land of the respondent no. 4. Accordingly, a fresh interview was decided to be held by the IOCL, which the petitioner challenged in C.W.J.C. No. 10037 of 2010. This Court by its order dated 12.07.2010 dismissed the writ petition with the following observations:-

“ Learned counsel for the petitioner is unable to show either from the advertisement or from any guidelines issued by the Corporation that mere presence of a culvert near the land of a candidate disqualifies him from selection as a dealer of the said Kisan Seva Kendra.....

In the said circumstances, it could not be held on the



finding of existence of a culvert in the front of the land of respondent No. 4 that he was disqualified for the dealership. That being the position, there can be no automatic handing over of the dealership to the petitioner and thus the decision of the competent authority to hold fresh interview of all the eligible candidates does not appear to be arbitrary and unreasonable.

In the above circumstances, this Court does not find any merit in the writ application It is, accordingly, dismissed.”

4. Learned counsel for the petitioner submits that in the fresh interview held on 05.03.2011, the respondent no. 4 once again stood at serial no. 1 with 89 marks on the parameter of land enhanced from 80 marks granted in the earlier interview. On the other hand, the petitioner’s marks on the parameter of “future land and business acumen” were reduced, thus resulting in the petitioner being placed at serial no. 2. It is submitted that this has been done only to aid the respondent no. 4, and makes arbitrariness in action evident on the part of IOCL. It is further submitted that the respondent no. 4 ought to have been disqualified from the interview on the ground of existence of culvert in front of his land, instead he has arbitrarily been placed at serial no. 1 yet again. On the other hand, there was little justification for reducing the marks of the petitioner on the parameter of future plan and business experience to 1.17 and 1.00 which had arbitrarily

been reduced from 3.17 and 3.17 respectively awarded in the earlier interview.

5. Learned counsel for the respondents IOCL, on the other hand, opposes the writ petition, submitting that marks awarded to the candidates are based on personality evaluation and the entire process is carried out in a completely transparent manner. It is submitted that there is nothing arbitrary in the award of marks to the candidates, much less in the case of the parties herein, which has been done in an objective manner having regard to various considerations relevant for award of the dealership. Significantly, the petitioner himself has sought to mislead the IOCL inasmuch as the land offered by him has been shown to be of 3 kathas 15 dhurs whereas in the khatyan, the land is recorded as only 3 kathas and 5 dhurs. Moreover, 1 katha 1 dhur has already been sold and also 11 dhurs out of the said land has been sold to one Halim Ansari. It is therefore submitted that for this reason, it is the petitioner himself who was liable for disqualification. A categorical stand has also taken in para-4 of the counter affidavit to the effect that there does not exist any culvert in between the land of respondent no. 4 rather the said culvert is on the northern portion in between the land of the respondent no. 4 and the road.

6. Having heard the parties and on consideration of the materials on record, this Court does not find any merit in the writ

petition. As regards the petitioner's objection on the grounds of the existence of a culvert on the land of the respondent no. 4, the same are a mere repetition of the plea taken in C.W.J.C. No. 10037 of 2010 aforesaid and the observations of this Court were clear and unambiguous, to the effect that the existence of a culvert in front of the land of the respondent no. 4 could not be treated as a disqualification in view of the Brochure and the Guidelines. As regards the award of marks to the petitioner and the respondent no. 4, the petitioner has failed to satisfy this Court that the IOCL has acted with manifest arbitrariness. Selection of dealers is required to be made on the basis of various criteria and the IOCL is best placed to decide which of the candidates would best serve the objective of the Kisan Seva Kendra Dealership. While exercising its powers of judicial review, this Court will not sit in appeal over the action of the respondents to decide what marks ought to have been awarded to the candidates.

7. The writ petition, accordingly, stands dismissed.

(Vikash Jain, J)

Md. Ibrarul/-

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