

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.19773 of 2012

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1. Md. Sajid Kalam S/O Late Md. Abul Kalam R/O Village & Post- Andhana, P.S.-
Noorsarai, District- Nalanda

.... Petitioner/s

Versus

1. The Union Of India Through Secretary Petroleum And Natural Gas, Ministry Of
Petroleum And Natural Gas, New Delhi
2. The Senior Area Manager, Indane, Area Office Indian Oil Corporation Ltd., 1st
Floor, Shahi Bhawan, Exhibition Road, Patna-1
3. The Area Manager, Indane Area Office Indian Oil Corporation Ltd., 1st Floor,
Shahi Bhawan, Exhibition Road, Patna-1
4. The Chief Area Manager, Patna A.O. Indian Oil Corporation Ltd. 1st Floor,
Shahi Bhawan, Exhibition Road, Patna-1

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Abul Kalam

For the Respondent/s : Mr. K.D. Chatterji, Sr. Advocate
Mr. Amlesh Kumar Verma

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL

ORAL JUDGMENT

Date: 29-11-2016

Heard the Counsel for the petitioner and Mr. K.D. Chatterjee
for the respondent Indian Oil Corporation (for short 'the
Corporation'). Parties have exchanged the pleadings.

The respondent Corporation advertised certain locations for
grant of distributorship/retailership under Rajiv Gandhi Gramin LPG
Vitrak Scheme. Location Andhana in the district of Nalanda was
available for open category. The petitioner applied for the said
location on 25.03.2011 vide application at Annexure-1. It is stated that
in the draw of lots held by the respondent Corporation for the said
location, the petitioner was adjudged as the successful applicant vide
communication dated 29.10.2011 (Annexure-5). Subsequently, the



respondent Corporation as per the guidelines made field verification of the claim of the petitioner wherein it was found that the land offered by the petitioner was not mutated in his name. Instead, it was mutated in the name of his father. The field verification report in the case of the petitioner is placed at Annexure-A of the counter affidavit filed by the Corporation. On the basis of the defects found in the application of the petitioner, the Chief Area Manager of the respondent Corporation vide communication dated 13.09.2012 (Annexure-8) cancelled the award of the subject distributorship at the said location setting out reasons therefor. Aggrieved thereby, the present writ petition is filed.

Learned counsel for the petitioner submits that before the field verification could be made by the respondents, the petitioner had presented the land possession certificate (Annexure-6) issued in favour of the petitioner on 25.11.2011. The father of the petitioner had already died. There was nothing to suspect the clear title of the petitioner over the land offered by the petitioner for the purpose of opening of godown. On mere technicalities, respondents have cancelled the candidature of the petitioner inasmuch as the award of the subject distributorship has also been cancelled.

Mr. Chatterjee, in contra, submits that there was basic defect in the application filed by the petitioner inasmuch as the petitioner on the date of filing of the application did not fulfil the required common



eligibility criteria. The application specifically requires the applicant to provide the date on which the land offered was mutated in the name of the petitioner/applicant. Indisputably, on the date when the petitioner filed the application, the land was not mutated in his name. Even according to the petitioner, only a land possession certificate in respect of the subject land was furnished and that too on 25.11.2011. The land possession certificate would not tantamount to mutation of the name of the applicant in the revenue records under a quasi-judicial order passed by the appropriate/competent revenue authority. He also points out that during the pendency of the application, the respondents again initiated process of selection inasmuch as the fresh draw of lot was carried out in which the subject location has been allotted to one M/s Kaushlya Indane Gramin Vitrak on 25.09.2014 inasmuch as the same has already been commissioned. Even on the ground of equity, the present relief is fit to be declined as the allottee of the said location is neither a party before this Court nor any step was taken by the petitioner to object the grant of the distributorship for the said location in favour of M/s Kaushlya Indane Gramin Vitrak.

From perusal of the records and after hearing both sides, it is found that the petitioner was required to state about the mutation of the land in his favour. There is agreement at Bar with regard to one fact that the subject land, at the time of filing application, was not mutated in the name of the petitioner. Mr. Chatterjee, in this regard,

has pointed out that the petitioner being married as evident from his application cannot claim any right *ipso facto* on the basis of the fact that his father was dead on the date when the application was filed. The petitioner would constitute in the light of the provisions of the guidelines a separate family unit consisting of himself, his spouse and unmarried sons/daughters. The contention of the petitioner that his father was dead on the date when the application was filed, would not come to his rescue. That apart, it is seen from the record that during the pendency of the application, the respondents, according to the laid down procedure, proceeded with fresh draw of lots and allotted the subject location in favour of another applicant who is not party to this proceeding. No relief can be granted to the petitioner in absence of the person in whose favour a right has been created by allotment of the distributorship.

For all these reasons, this Court does not find it a fit case for invocation of discretionary writ jurisdiction. Consequently, the writ application fails. It is, accordingly, dismissed. No costs.

(Kishore Kumar Mandal, J)

Pankaj/-

AFR/NAFR	NAFR
CAV DATE	
Uploading Date	01.12.2016
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