

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Civil Writ Jurisdiction Case No. 2019 of 2015**

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Prakash Chandra Chaudhary Son of Sri Tulsi Das Chaudhary Resident of Falka Bazar, P.O. & P.S. Falka, District Katihar.

.... .... Petitioner/s

Versus

1. The Indian Oil Corporation Ltd. Company incorporated under the Companies Act, 1956 having its registered office at G-9, Ali Yavar Jung Marg, Bandra (East) Mumbai-400051.
2. The General Manager, India Oil Cooptation Ltd. (Marketing Division) Bihar State Office, Loknayaak Jaiprakash Bahawan, Dak Bunglow Chowk, Patna-800001.
3. The Deputy General Manager (Retail Sales), Indian Oil Corporation Ltd. (Marketing Division) Bihar State Office, Loknayaak Jaiprakash Bhawan, Dak Bunglow Chowk, Patna-800001.
4. The Senior Divisional Retail Sales Manager, Regional Manager, Indian Oil Corporation Ltd. Marketing Division, Begusarai.
5. The Fresh L 1 Evaluation Committee, Indian Oil Corporation Limited, Bihar State Office, Loknayaak Jaiprakash Bhawan, Dak Bunglow Chowk, Patna-800001.
6. Sanjay Kumar Jha, Son of Sri Kamdeo Jha, Resident of Village Sohtha, P.O. & P.S. Falka, District- Katihar, Bihar, Pin-854118.

.... .... Respondent/s

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**Appearance :**

For the Petitioner/s : Mr.  
For the Respondent/s : Mr.

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**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH**  
**ORAL JUDGMENT**

**Date: 08-03-2016**

Heard learned counsel for the parties.

The present writ application has been filed for quashing letter/order bearing Reference No. BOS/RS/KSK/173 dated 16.12.2014 communicated to the petitioner by the

respondent no. 2 by which the complaint of the petitioner has been rejected and the authorities have declared that steps would be taken in line with the Merit Panel dated 01.12.2014, by which the respondent no. 6 has been held eligible for grant of the Kisan Seva Kendra dealership being found to be number one in the merit list.

Learned counsel for the petitioner submits that pursuant to advertisement dated 12.08.2011 for the Kisan Seva Kendra retail outlet of the Indian Oil Corporation Limited (hereinafter referred to as the 'I.O.C.') he had submitted his application on 22.09.2011 and after the selection letter and interview a merit list was prepared on 29.06.2012 in which the petitioner was at serial No. 2 in the merit list out of three persons having secured 89.93% whereas the respondent no. 6 was the first securing 90.74% whereas the third applicant was given 55.77% marks. Learned counsel submits that as in the 'Fixed and Movable Assets' category, the petitioner was given zero marks, he filed a petition on 13.07.2012. The complaint not being responded to, the petitioner filed appeal before the 1<sup>st</sup> Appellate Authority on 23.08.2012 and the same was rejected by order dated 08.10.2012. The petitioner then filed his second appeal to the State Commission on 12.10.2012 but the same was not disposed off and in the meantime, the petitioner moved the Court in C.W.J.C. No. 9960 of 2013, which was disposed off by order dated 17.11.2014 directing the Competent Authority to take a final decision in the case of the petitioner within a period of one month. The impugned



order was accordingly passed by the authorities which, according to the petitioner, was without issuing notice or giving any chance of hearing being based on a collusive report of the Local Revenue Authorities. Learned counsel submits that the impugned order is totally arbitrary and erroneous for the reason that as per the terms of the advertisement, the location of the Kisan Seva Kendra dealership was required to be at Giriyama ( within 1 Km from Giriyama Chowk on Falka-Gerabari Road) in the District of Katihar. Learned counsel submits that the location being so specific that a distance having been given from the Giriyama Chowk on a particular road till a distance of 1 K.M. does not leave any scope of confusion or ambiguity in the intention of the I.O.C. with regard to the location for the dealership in question. Learned counsel submits that his location was at a distance of 600 metres from Giriyama Chowk, whereas that of the respondent no. 6 was 50 metres. Learned counsel submits that the report of the Circle Officer which has been endorsed by the District Magistrate and communicated to the I.O.C. and on which the impugned order has been passed is clearly collusive for the reason that the report of the Circle Officer mentions that both the land of the petitioner as well as respondent no. 6 were in *Mauza* Giriyama but at the end it had been written that it was beyond the place named Giriyama. Learned counsel submits that when the land of the petitioner was situated in Giriyama and undisputedly both the land of the petitioner and the respondent no. 6 were situated in the Giriyama



*Mauza* of Falka Block, there could not have been any discrimination or distinction between the land of the petitioner as it satisfies the requirement and the report of the Circle Officer stating that the land of the petitioner was outside the place named Giriyama is totally perverse in order to cause undue advantage to the respondent no. 6. Learned counsel submits that there is no dispute in the location of the land of both the petitioner and the respondent no. 6 being situated in Giriyama *Mauza* under Falka Block and the advertisement clearly mentioning only Giriyama and that too clarifying that it has to be within a distance of 1 Km from the Giriyama Chowk on a particular road, there cannot be an unnatural, imaginary and created distinction that the land of the petitioner was outside the place called Giriyama, which is also factually incorrect. Learned counsel submits that this being the only reason and the authorities themselves giving the petitioner 2.12 marks under the 'Fixed and Movable Assets' head, he would automatically become the first candidate in the merit list and thus, rightfully, the Kisan Seva Kendra dealership ought to have been allotted to him.

Learned counsel for the I.O.C. as well as the respondent no. 6 submit that initially on the basis of the applications, the merit list was prepared in which the petitioner was at number two whereas respondent no. 6 was at serial no. 1 but on complaint received from the petitioner, the matter was sent to the Local Revenue Authorities for verification and because of



the report submitted by the District Magistrate based on the report of the Circle Officer, the petitioner's site was rejected as being outside Giriyama for which the respondents cannot be faulted as they have taken all precaution to get the matter verified by the concerned Authorities. Learned counsel for the respondent no. 6 further adds that subsequent to the issuance of the Letter of Intent (L.O.I.) as well as the No Objection Certificate (N.O.C.), he has made huge investment.

Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, the Court has no hesitation to record a finding that the action of the I.O.C. has been totally against law and in fact patently illegal. The authorities having come out with the advertisement that the land had to be situated at Giriyama ( within 1 Km from Giriyama Chowk on Falka-Gerabari Road), the only requirement was that it should be in Giriyama within 1 Km on a particular well defined road. In the present case it is not in dispute that the land of the petitioner was within Giriyama *Mauza* in Falka Block as was the case of the land of the respondent no. 6. However, the Circle Officer and the District Magistrate giving the interpretation that it was beyond the place called Giriyama has to be held to be not only erroneous but clearly collusive as well as trying to favour a particular party by making a distinction which does not stand to any reasonable test as a place Giriyama has the simple meaning and both land of the petitioner as well as respondent no. 6 are situated in Giriyama



*Mauza* under Falka Block and admittedly the position being that the land of the petitioner was within 1 Km on Falka-Gerabari Road from Giryama Chowk, there cannot be any question of the petitioner not fulfilling the requirement relating to location. For the reason aforesaid, the action of the I.O.C. in allotting the dealership to respondent no. 6 is bad in law and accordingly set aside. As a consequence, grant of L.O.I. and N.O.C. by any authority in favour of the respondent no. 6 and all subsequent orders/action in his favour also stand automatically set aside.

Thus, on the basis of the position emerging from the discussions made hereinabove, the petitioner now becoming the candidate with the highest marks, being entitled to grant of dealership of Kisan Seva Kendra, the authorities are directed to issue the L.O.I. in his favour.

As has been pointed out by learned counsel for the petitioner that initially there was an interim order in the case which was allegedly violated by the respondents for which M.J.C. No. 2571 of 2015 was filed by the petitioner but by order dated 14.10.2015, the same having been disposed off with the observation that 'even if the action complained of in this application would be subject to result of the writ petition, no case for contempt is made out'. It is submitted that the respondent no. 6 cannot take the plea of any equity in his favour as the Court had made it clear that any action of the authorities was subject to the result of the present writ application. The Court finds substance in

such contention and thus on the ground of equity also respondent no. 6 cannot be shown any indulgence.

Further, the Court having directed for maintaining *status quo* by earlier order dated 10.04.2015, the respondent no. 6 was fully aware that the final decision in the case shall govern the grant of dealership and any investment made by him was at his own risk and cannot give rise to any equity being created in his favour.

The respondents are directed to ensure that the order of the Court is complied within four weeks.

The writ petition stands disposed off in the aforementioned terms.

**(Ahsanuddin Amanullah, J.)**

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