

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 19355 of 2011

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Ajay Kumar Singh, son of Hari Shankar Prasad Singh, resident of Village & P.O. -
Karsahiya, P.S. Dhaka, District - East Champaran, Motihari

..... Petitioner

Versus

1. The Union of India through the Secretary Oil and Natural Gas, New Delhi
2. The Indian Oil Corporation Ltd. through its Chairman, Mumbai
3. The General Manager, Indian Oil Corporation Ltd. Lok Nayak Jai Prakash Bhawan, 5th Floor, Dak Banglow Chowk, Patna -1
4. The Senior Divisional Manager, Retail Sales Muzaffarpur Division Krishna Complex Akharaghat Road, Muzaffarpur
5. The Managing Director, Indian Oil Corporation Ltd., Lok Nayak, Jai Prakash Bhawan, Patna
6. Jyoti Bhushan, son of Deo Nandan Singh, resident of Mohalla- Sri Krishna Nagar, P.S.- Motihari Town, District- East Champaran, Motihari
7. The Collector cum District Magistrate, East Champaran, Motihari

..... Respondents

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Appearance:

For the Petitioner	: Mr. Sanjay Singh, Mr. Nagendra Kumar Singh, Advocates
For the Corporation	: Mr. K.D. Chatterji, Sr. Advocate Mr. Amlesh Kr. Verma, Mr. Shailesh Kashyap, Advocates
For Respondent No. 6	: Mr. Vaidihi Raman Pd. Singh, Advocate
For Respondent No. 7	: Mr. Kamlesh Kishore, AC to SC 12

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 19-09-2016

Heard learned counsel for the petitioner and learned
counsel for the respondents.

2. The present writ petition has been filed for quashing the order contained in Ref. MDO/RO/Sugauli/Comp/04 dated 11.08.2011 of Senior Divisional Manager Retail Sales, Muzaffarpur Divisional Office respondent no. 3 (Annexure-6), whereby the empanelment of the petitioner for the subject location has been cancelled, holding that the lease deed of the plot of land offered by the petitioner is found not

correct and the same is litigated; and for connected reliefs.

3. Learned counsel for the petitioner invites attention to the impugned order dated 11.08.2011 to submit that the same is erroneous and in fact there was neither any error in the lease deed nor any litigation pending at the relevant time. It is submitted that the petitioner was selected in the interview held on 27.04.2010 whereas the litigation in terms of Title Suit No. 296 of 2010 was instituted later on 01.05.2010 before the learned Subordinate Judge Ist, Motihari (Annexure-9). It is therefore submitted that the cancellation of the petitioner's selection for the dealership of retail outlet is arbitrary and unsustainable.

4. Mr. K.D. Chatterji, learned senior counsel appearing on behalf of the respondent-Corporation, fairly accepts that the aforesaid litigation was instituted subsequent to the petitioner's selection. However, it is submitted that a further reason had weighed with the Corporation for cancelling the petitioner's selection related to an 11 KV electric line passing over the petitioner's land, but the same had been missed to be mentioned in the impugned order of cancellation through sheer inadvertence.

5. Learned counsel for the private respondent no. 6 relies on paragraphs 4 and 6 of his counter affidavit to state that the 11 KV electric line had been passing over the petitioner's land at the time of interview and such situation continued thereafter, which disentitled him from the dealership of the retail outlet in question.

6. Having heard the parties and on consideration of the materials on record, this Court is of the view that if one of the reasons for the petitioner’s selection being cancelled by the Corporation related to passing of electric line of 11 KV over the offered land, the petitioner ought to have been given a show cause notice to that effect, and after hearing him, such reason been assigned in the impugned order of cancellation, all of which have admittedly not been done.

7. In the interest of justice and with the consent of the parties, therefore, the writ petition is disposed of, setting aside the impugned order dated 11.08.2011 cancelling the petitioner’s selection. The Corporation shall be at liberty to issue an appropriate show cause notice to the petitioner with regard to 11 KV electric line said to have been passing over the offered land of the petitioner, and thereafter proceed in accordance with law. The matter should be disposed of after grant of proper opportunity of hearing to the petitioner as well as the private respondent no. 6. The conditional LOI issued in favour of respondent no. 6 shall remain in abeyance for the time being and shall abide by the fresh order to be passed by the respondent-Corporation as above.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	21.09.2016
Transmission Date	N.A.