

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.1364 of 2012

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Ritesh Kumar, S/O Chandrabhushan Rai, R/O Village- Khurhuria, P.S.- Kateya, District-Gopalganj.

.... Petitioner/s

Versus

1. The Indian Oil Corporation Ltd. through the General Manager, Indian Oil Corporation Ltd., 5th Floor, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chowk, Patna.
2. The Sr. Divisional Manager, Retail Sales, Indian Oil Corporation Ltd., Muzaffarpur Divisional Office, Krishna Complex, Akharaghat Road, Muzaffarpur – 842001.
3. Shri Sashi Kumar Tiwary, S/O Shri Krishna Murari Tiwary, R/O Village.- Baikunthpur, P.S.- Kateya, District- Gopalganj.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Vishwajeet Kumar Mishra
For the Respondent/s	:	Mr. Kali Das Chatterji, Sr. Advocate with Mr. Amlesh Kumar Varma

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

ORAL JUDGMENT

Date: 16-02-2016

Heard Mr. Vishwajeet Kumar Mishra, learned counsel appearing for the petitioner and Mr. Kali Das Chatterji, learned senior counsel appearing for the Indian Oil Corporation.

The petitioner has prayed for quashing the decision of the respondent-Senior Divisional Manager, Retail Sales, Indian Oil Corporation Limited, Muzaffarpur as contained in his letter dated 12.12.2011 addressed to the petitioner impugned at Annexure-5 whereby after examining the grievance raised by the petitioner he has been informed that the marks allotted to him against the infrastructure head as well as fixed and moveable assets are correct and require no modification. By the same communication the petitioner has also been informed that the allegation against the 1st empanelled candidate who is respondent no.3 herein is also free

from doubt. The petitioner thus while questioning the empanelment of respondent no.3 as regarding his eligibility, has questioned the markings given to him by the selection committee for award of retail outlet dealership under the Kisan Seva Scheme in the district of Gopalganj.

Apart from canvassing the issue on merits, Mr. Mishra has also relied upon Clause-18(B) of the guidelines issued by the respondent-Oil Company to submit that the order present at Annexure-5 has been passed without opportunity of hearing to the petitioner.

A counter affidavit has been filed enclosing the field investigation report at Annexure-R/1 and a perusal thereof manifests that whereas the land offered by the petitioner being situated within 30 meters of the culvert, was not found entitled to any marks on the other hand the land offered by the respondent no.3 was suitable for award of 11 marks against this requirement.

The second issue raised by the petitioner is questioning the eligibility of the respondent no.3 on his experience. According to the petitioner, the respondent no.3 was a resident of Jeddah, Saudi Arabia and thus the experience certificate submitted by him was fabricated. The investigation report present at page 49 manifests that the matter was got examined from the employer of respondent no.3 who is the sole proprietor of M/s Hardik Filling Station and who has confirmed the work of respondent no.3 as his

manager with effect from 1.4.2006 to 31.3.2007 and during which period it was also found that the respondent no.3 did not leave the country. The allegation of manipulation by the respondent no.3 as regarding his experience qualification was thus rejected and not found manipulated.

Even though the guidelines do permit a hearing to the complainant but in the facts reflecting from the field investigation report which conformingly upholds the qualification of respondent no.3 for such empanelment while also confirming the marks so awarded by the respondents to the petitioner, a remand of the matter on grounds that a hearing has not taken place would only result in a completion of a formality when the conclusion is foregone and the opinion is founded on the field investigation report.

In the circumstances discussed, I am not persuaded to interfere with the decision of the selection committee in awarding the dealership to the respondent no.3.

The writ petition is accordingly disposed of.

(Jyoti Saran, J)

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