

CWP No.2046 of 2016 (O&M)

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No.2046 of 2016 (O&M)
Date of decision:27.05.2016**

Ricky Bansal

...Petitioner

Versus

Hindustan Petroleum Corporation Ltd. and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Anmol Rattan Sidhu, Sr. Advocate, with
Mr. M.S.Saini, Advocate, for the petitioner.

Mr. Raman Sharma, Advocate,
for the respondents.

Rakesh Kumar Jain, J.

The Hindustan Petroleum Corporation Limited (hereinafter referred to as the “HPCL”) issued an advertisement on 09.10.2014 for appointment of dealers for regular & rural retail outlets in and within 2 Kms. of village Mullowal on Dhuri-Kakarwal Road, District Sangrur. The petitioner applied on 12.11.2014 in the open category vide application Form No.99/1 and received a letter on 23.06.2015 from the respondents for inspection of the site on 07.07.2015 at 12.30 p.m. The Land Evaluation Committee (LEC) inspected the site on the fixed date and time and on 13.08.2015, informed the petitioner that he has not been found eligible for allotment of retail outlet dealership on the ground that “HT wire crossing from offered plot as on date of LEC”.

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The petitioner made a complaint on 16.09.2015 to the Grievance Redressal Cell of the respondents and requested to allow him to offer an alternate site. Since there was no response to the complaint, the petitioner sent a legal notice dated 03.10.2015 and on 23.10.2015, the case of the petitioner was closed by rejecting his complaint and the legal notice on the ground that *“an alternate land can only be inspected by the LEC team if the same was offered by you in a separate application form as per advertisement timelines”*. The petitioner made another application on 02.11.2015 to the Incharge, Grievance Redressal Cell of the HPCL and thereafter, the present petition has been filed assailing the orders dated 13.08.2015 and 23.10.2015.

The case set up by the petitioner is that he could not have offered alternate land with a separate application, as has been observed in the impugned order dated 23.10.2015. It is submitted that as per note (b) contained under the heading of “Land” in Clause 4(vi) of the brochure for selection of dealers for regular & rural retail outlets dated 09.10.2014 (hereinafter referred to as the “brochure”), the petitioner could have offered only one piece of land at the time of submitting his application form and has referred to Clause 14(H)(iv) of the brochure in which it is provided that *“each applicant should submit only one application for one location”*. It is, thus, submitted that the petitioner could not have offered alternate land on a separate application form as observed in the impugned order dated 23.10.2015 and the respondents should have accepted the offer of the alternate land made by the petitioner after his initial offer of land was

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rejected on 13.08.2015. Thus, it is argued by learned counsel for the petitioner that the entire action on the part of the respondents is arbitrary.

In reply, it is submitted by the respondents that initially the last date for online submission of the relevant details was 17.12.2014 which was subsequently extended upto 1700 Hrs on 26.12.2014 and the date for printout of online application along with relevant details was extended upto 1700 Hrs on 02.01.2015. It is submitted that no application was permissible after the cut-off-date mentioned for the receipt of applications, as provided in Clause 14(D) of the brochure. It is also submitted that the land to be offered by the petitioner was classified in two groups, out of which Group-2 is relevant in this case because the offer was made by the petitioner of the land in terms of Group-2 i.e. *“Applicants having Firm Offer for a suitable piece of land for purchase or long term lease for a period of minimum-years (as advertised by the concerned Oil Company)”*. It is further submitted that the following has been provided in Clause 14(J) of the Selection Procedure:-

“J. Land Evaluation Committee (LEC):

All the eligible candidates falling under Group 1 would be informed about visit of the Land Evaluation Committee for evaluation of their offered land.

Evaluation of the offered land will be carried out to ascertain land being in advertised area and being suitable for development of RO-meeting norms. The parameters under which land will be evaluated by Land Evaluation Committee for suitability are:-

- * Land in advertised area/stretch
- * Land dimensions as per requirement
- * Land meets NHAI norms (for sites on NH)
- * Land has no HT line (.11 KVA) crossing

Land not meeting any of the above parameters will not be

considered and will be rejected.

Moreover, if the same piece of land is found to be offered by more than one applicant for a particular RO location then all such applications would be rejected.

In case no suitable candidate is found from GROUP 1, then land evaluation would be carried out for eligible candidates under GROUP 2.”

It is submitted that the petitioner knew about the fact that the land, which has been offered by him, had HT wire crossing over it and was bound to be rejected but still he offered the said land. However, it is submitted that if the petitioner wanted to offer the said land also, which was going to be rejected, he was still at liberty to offer another piece of land in terms of note (c) contained in Clause 4(iv) which reads that *“in spite of above if an applicant offers more than one land then, a confirmation in writing is to be obtained by Land Evaluation Committee (LEC) from the applicant with regard to the plot of land to be considered”*.

It is sought to be argued that the petitioner knew about the non-suitability of the land offered by him and at that time, he should have offered the alternate piece of land or more than one land for which the confirmation should have been obtained in writing by the LEC from the petitioner with regard to the plot of land to be considered but no such offer was made by the petitioner rather the petitioner had offered the land which could not have been accepted at any cost by the respondents because there was a HT wire crossing over it. It is also submitted that the alternate offer of land made by the petitioner is after the cut-off-date.

Counsel for the respondents has further argued that the petitioner cannot take advantage of the line written in the impugned order

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wherein it has been mentioned that the petitioner should have offered an alternate land in a separate application form because no separate application could have been filed in view of note (c) contained in Clause 4(iv), as referred to above.

I have heard learned counsel for the parties and examined the available record with their able assistance.

There is no doubt that the petitioner had offered the land within the prescribed time which was not suitable for the purposes of the respondents as it had HT wire crossing over it which was a specific non-suitability provided in Clause 14(J) of the Selection Procedure contained in the brochure wherein it is also mentioned specifically that the land not meeting any of the parameters laid down in the brochure will not be considered and will be rejected but still the petitioner, knowing fully well about the condition of the land offered by him, went ahead with the said offer which was ultimately turned down vide order dated 13.08.2014. Thereafter, the petitioner tried to offer another piece of land which has not been accepted because the said piece of land was offered by the petitioner after the cut-off-date and there is a procedure for the offer of an alternate land because it is provided in note (c) contained in Clause 4(iv) of the brochure, applicable to all categories, that more than one offer could be made by the applicant but the said offer has to be confirmed by the LEC in writing from the petitioner for the purpose of its consideration. The petitioner, for the reasons best known to him, did not make the offer of more than one piece of land when he offered the land having the HT wire

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crossing over it which was *per-se* not acceptable to the respondents in view of a categorical condition contained in Clause 14(J) of the brochure. Nothing has been shown by the petitioner that the respondents had the jurisdiction to accept the offer of an alternate land after the cut-off-date.

Thus, there is hardly any reason with this Court to interfere in this petition and to set aside the impugned orders.

Consequently, the present petition is hereby dismissed being denuded of any merit.

May 27, 2016
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(Rakesh Kumar Jain)
Judge