

In the High Court of Punjab and Haryana at Chandigarh.

**CWP No. 25721 of 2013
Decided on 26.7.2016**

Chander Bhan

--Petitioner

Vs.

Hindustan Petroleum Corporation Limited and another

--Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr. Rajiv Kataria, Advocate, for the petitioner

Mr.Raman Sharma, Advocate, for the respondents

Rakesh Kumar Jain,J: (Oral)

This petition is filed to assail the validity of the order dated 30.9.2013 passed by Hindustan Petroleum Corporation Limited (for short,'the Corporation'), cancelling the candidature of the petitioner for allotment of the retail outlet Dealership at Dudhola, District Palwal, under the Scheduled Caste Category.

In brief, the Corporation advertised the location on 24.11.2005 for the allotment of 150 retail outlet dealerships in the Scheduled Caste Category. It was specifically provided that “Multiple Dealership Norm

(relation clause): Persons desirous of applying should not be having either letter of intent (LOI) or Dealership/Distributorship of MS/HSD/SKO-LDO/LPG of any Oil Company in his/her owner name or in the name of his/her family members. Family members, for this purpose, would comprise of i) Spouse, ii) Unmarried Son (s)/ unmarried Daughter (s). The petitioner applied for the said outlet. He also submitted an affidavit dated 13.12.2005 in which it was categorically mentioned that “Neither I or any of my following close relatives are having any RO-SKO-LDO Dealership or L.P.G Distributorships/ or holding any letter of intent for RO/SKO-LDO Dealership or LPG Distributorship from any Oil Company”.

The petitioner was called for interview on 22.12.2010. In the interview letter, it is mentioned that “Please note that prior to the interview, candidates will be required to submit an affidavit again as per Appendix A/AI (Whichever is applicable) signed and notarized not earlier than 3 working days of the date of interview. Kindly note that in case of non-submission of the affidavit, the candidate will be considered as ineligible and will not be interviewed by the Selection Committee”.

The petitioner sworn his affidavit dated 22.12.2010 Annexure P-3 in which he averred that “I am unmarried. That neither I nor my father , mother, unmarried brother (s), unmarried sister (s) have dealership/distributorships or hold letter of intent for retail outlet or SKO-LDO dealership or LPG distributorship of any Oil Company”.

After the interview, the petitioner was ranked at serial No.1 and was allegedly expecting for allotment of dealership but vide the impugned order dated 30.9.2013, the petitioner was informed that on account of a complaint made by Om Parkash, who was at serial No.2,

investigation was conducted in which it has been found that the petitioner did not disclose in the affidavit dated 13.12.2005 that he was LOI holder of another Oil Company.

Aggrieved against the order of cancellation, the present petition has been filed.

Learned counsel for the petitioner has submitted that the petitioner is not at fault because the Corporation is to ensure that the applicant should not have two allotments of different oil companies at the same time. It is further submitted that when the affidavit dated 20.10.2007 was filed, at that time, the petitioner did not have Letter of Intent of Indian Oil Corporation because it was already surrendered on 09.12.2009 as the LOI was issued to the petitioner on 30.9. 2004 but even after the expiry of five years, no proceedings were carried out for the purpose of allotment. It is further submitted that the respondents have to see as to whether the petitioner was having LOI of any other Oil Company on the date of interview which was conspicuously absent. Thus, cancellation of his candidature being at serial No.1 is illegal.

On the contrary, learned counsel for the respondents has submitted that the parties are bound by the Hindustan Petroleum Corporation Ltd Brochure Selection of Retail Outlet Dealers issued on 01.11.2004 in which Clause 4.4. deals with disqualification in which Clause (e) says that if a person is guilty of wilfully giving wrong information would not be eligible. He has referred to Clause 19.2 of the said Brochure in which it is provided that if any information furnished by the applicant is found to be false at any point of time before or after appointment as a dealer, the allotment will be cancelled forthwith and

dealership would be terminated in case commissioned.

It is further submitted that the petitioner very well knew about the terms and conditions for applying which was provided categorically in the advertisement, therefore, he should not have any Letter of Intent in his favour of any other Oil Company at the time of filing of application which was made by him in the year 2005, whereas the petitioner had also got Letter of Intent from the Indian Oil Corporation in the year 2004. It is further submitted that if the petitioner was ranked at No.1 of the list, the same would not clothe him with the right to claim dealership of Retail Outlet, rather his right shall be perfected after field verification.

During field verification, it has been found by the Corporation after receiving information from the Indian Oil Corporation vide letter dated 07.7.2011 that the petitioner had already got the Retail Outlet of Indian Oil Corporation on 30.9.2004 which he should have disclosed at the time when the Retail Outlet was offered by the Corporation in the year 2005. Had it been disclosed, then the petitioner would not have been considered at all and the entire exercise would not have been carried out. Therefore, the petitioner has to be blamed for this and not the Corporation.

After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that there is no merit in the present petition as the petitioner is guilty of concealing the fact of having Letter of Intent from the India Oil Corporation in the year 2004 while applying for the Retail Outlet offered by the Corporation in the year 2005. Had it been disclosed in the affidavit dated 13.12.2005, his application would have been thrown at the threshold.

The argument of learned counsel for the petitioner that the

petitioner had surrendered the Letter of Intent of the Indian Oil Corporation before the interview is of no consequence because it is mentioned in the interview letter that the petitioner is liable to file an affidavit again because the Corporation wanted to be doubly sure about the eligibility of the petitioner. The petitioner even did not disclose in the affidavit that he had the Letter of Intent of the Indian Oil Corporation of the year 2004 which was surrendered later on.

Keeping in view the aforesaid facts and circumstances of the case, I do not find any merit in this petition and the same is hereby dismissed.

26.7.2016
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(Rakesh Kumar Jain)
Judge