

CWP No.27878 of 2013

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

**CWP No.27878 of 2013
Date of decision:11.03.2016**

Anil Kumar

...Petitioner

Versus

Indian Oil Corporation Ltd. and others

...Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. P.R.Yadav, Advocate,
for the petitioner.

Mr. Ashish Kapoor, Advocate,
for respondents No.1 to 3.

Mr. Ajay Kr. Gupta, Advocate,
for respondent No.4-UOI.

Rakesh Kumar Jain, J. (Oral)

This petition is filed to challenge the result dated 24.01.2013 and letter dated 31.10.2013 whereby claim of the petitioner to the retail outlet has been declined on the ground that the land offered by him does not have clear title.

The brief facts of the case are that the Indian Oil Corporation Limited issued an advertisement dated 29.03.2012 for appointment of retail outlet dealers. The petitioner applied for the site on State Highway No.24 (SH-24) within 5 Kms. from Satnali. He offered 6 Kanals of land which was taken on lease by him by registered lease deed for 30 years from the other co-sharers. Initially, when the site was inspected by the Inspection Team, it awarded 98.30 marks out of 100 on account of possession of the

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land by the petitioner but the Interview Board did not grant any mark on this account on the ground that the Inspection Team had committed a mistake in awarding marks to the petitioner because the land offered by him was not having clear title.

Counsel for the petitioner has submitted that as per Clause 14 of the brochure for selection of petrol/diesel retail outlet dealer dated 01.03.2012, the land owned by the applicant along with others met IOC's requirement and since the petitioner has already submitted affidavits of all the other co-sharers, who had raised no objection to the offer of the land by the petitioner for construction of retail outlet on it, therefore, the respondents have committed an error in not considering the land offered by him as no marks were awarded by the Interview Board.

On the other hand, counsel for the respondents has submitted that the petitioner has to qualify with 60% marks and in the interview, he has obtained only 56.70% marks, therefore, he was not considered for the purpose of allotment of retail outlet. So far as the question of land is concerned, he has referred to the 'allocation of marks on various parameters' in the same brochure which has been referred to by the petitioner, wherein it has been provided that “*B' site- Having clear title to land “own land”/Regd. Sale deed/having land on long lease (regd.) for a minimum period of 19 years 11 months as on date of application*”. According to the respondents, the land in question offered by the petitioner is under mortgage by the other co-sharers to the various banks, therefore, title of the land is not clear as it is encumbered.

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Counsel for the petitioner has submitted that insofar as the share of the petitioner is concerned, he has not taken any loan on the land in question but he has fairly submitted that the land in question is still joint as there is no partition effected nor recorded in the revenue record.

After hearing learned counsel for the parties and examining the available record, I am of the considered opinion that there is no error on the part of the respondents in declining the claim of the petitioner insofar as the parameters of the 'owned land' is concerned because it is specifically mentioned in the brochure that the title of the land offered should be clear, which means it should not be encumbered in any manner, whereas in the present case, the land in question is admittedly encumbered as is proved by the jamabandi for the year 2009-2010 (Annexure P-5), in which the column of remarks shows that the land in question has been mortgaged by other co-sharers to various banks.

Thus, in view of the aforesaid discussion, I do not find any error in the action of the respondents, declining claim of the petitioner.

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

March 11, 2016
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(Rakesh Kumar Jain)
Judge