

CWP No.6529 of 2015

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

**CWP No.6529 of 2015
Date of decision: 24.08.2016**

Daljit Singh

...Petitioner

Versus

Hindustan Petroleum Corporation Limited and others

..Respondents

CORAM: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Ashok Goel, Advocate,
for the petitioner.

Mr. Raman Sharma, Advocate,
for respondents No.1 to 3.

Rakesh Kumar Jain, J.

The Hindustan Petroleum Corporation Limited (hereinafter referred to as the “respondent-corporation”) issued an advertisement on 02.02.2004, inviting applications for appointment of LPG distributors on various locations under various categories. The location for Khadur Sahib, the then District Amritsar and now District Tarn Taran, was kept reserved for “defence category”. The applicant was to have a plot of the dimensions 20m x 18m to 32m x 30m for construction of godown as on the date of application. The petitioner applied on 14.02.2004 in terms of the guidelines dated 26.08.2003. He was interviewed along with respondent No.4 on 02.04.2004 and was awarded 71 marks as against 56.33 marks awarded to respondent No.4. The petitioner was issued a Letter of Intent on 13.06.2005. He had allegedly constructed the godown on the land offered

by him. Respondent No.4 filed CWP No.12990 of 2005 to challenge the allotment in favour of the petitioner. The said writ petition was dismissed on 03.08.2011. Respondent No.4 filed LPA No.1724 of 2011, which was disposed of on 26.09.2013, with the following orders:-

“We have heard learned counsels for the parties at length. There are various factual issues which are cropping up and there seems to be a lack of clarity as the material is being produced in piecemeal before us. The matter needs to be addressed holistically by a committee which must rescrutinize two applications of the parties i.e. appellant and respondent No.3 in pursuance to the advertisement, to reassess if there has been any discrepancy in allotment of marks.

We thus dispose of this appeal with the following agreed directions:-

- i) The Headquarter of North Zone of respondent No.1 Corporation will constitute a committee to look into the applications of the two parties.
- ii) The applications filed earlier alongwith the material placed on record at that stage of time would be taken into account.
- iii) Both the parties will be heard to explain their respective stands. In order to have an effective hearing, the materials placed by both the parties will be handed over to the opposite party by the committee.
- iv) The marks will be reassigned based on the advertisement published and criteria applicable as on the date of advertisement and thereafter reasoned orders be passed, to be communicated to both the parties.
- v) The allotment will be made on the basis of the result of the committee.

In case any party is still aggrieved, naturally, it would have liberty to assail the said decision in accordance with law.

The interim arrangement enuring in the present appeal will continue to operate till the aforesaid decision is taken and for a period of 15 days after the communication of the said decision.”

Thereafter, a committee was appointed by the DGM-LPG

(North Zone) to examine applications of both the petitioner and respondent No.4 in the light of the then prevailing selection criteria. In that re-evaluation, respondent No.4 secured 59.66 marks as against the petitioner who had secured 49 marks and a speaking order dated 24.06.2014 was conveyed to the petitioner, assigning reason for not awarding 20 marks for the godown which had earlier been awarded. The relevant portion of the said order is reproduced as under:-

- (i) The earlier interview committee had given 20 marks for Godown to Sh. Daljit Singh, which as per prevailing guidelines, can be given only when the candidate owns a land vide registered sale deed or registered gift deed. During the time of re-evaluation by new committee the candidate-Daljit Singh produced sale deed and Farad which proved that he owns a land (date of ownership-10-10-96) for godown not meeting the minimum requirement of 18m x 20m. The size of land offered by him is – 9 marla = 237 sq.m. Hence he is given zero marks in land for godown. The award of 20 marks by earlier committee was not found correct. The candidate Daljit Singh had made false claim in the application that he owns min. size of land for construction of godown. During the interview the candidate Sh. Daljit Singh said that he owns min. land for godown by adding the piece of land owned by his mother. Sh. Daljit Singh was informed by the committee that land owned by his mother cannot be considered as the prevailing guidelines says that land must be owned by candidate, spouse and unmarried children.”

Counsel for the petitioner has submitted that the respondent-corporation has committed an error in not awarding 20 marks for the godown which had already been constructed by the petitioner according to the site plan approved by the respondent-corporation on the basis of which the Letter of Intent was issued earlier. He has also submitted that the respondent-corporation has further committed an error in not considering

the case of the petitioner in the category of “has firm offer from landowner” for which 25 marks have been earmarked and has erred in not awarding any score for the godown on the premise that the petitioner does not own land to the extent of the dimensions mentioned in the advertisement.

Counsel for the respondent-corporation has submitted that the petitioner had applied for the LPG distributorship on the ground that he owns land for the purpose of construction of godown but as per the revenue record, the said land falls in Khasra No.338 in which share of the petitioner is only 0K-09M which does not conform to the specifications provided in the advertisement of the dimension of plot required for construction of godown as 20m x 18m to 32m x 30m.

Counsel for the petitioner has not denied that 0K-09M land does not conform to the specification of the dimension of plot for construction of godown as required in the advertisement under the head of “infrastructure and facilities”.

It is also submitted by counsel for the respondent-corporation that the application of the petitioner had to be considered under the then prevailing guidelines as per which the petitioner had to stick to his stand of “owns land” and now cannot change it to “has firm offer from landowner” to the detriment of respondent No.4. It is also submitted that if this procedure is allowed to be followed, then there would be unending applications on the part of the applicant(s) for changing their categories to avoid rejection of their applications.

I have heard learned counsel for the parties and examined the available record.

The only issue involved in this case is as to whether the order dated 24.06.2014 passed by the respondent-corporation, rejecting candidature of the petitioner on re-evaluation of the applications, and the order dated 11.09.2014, rejecting representation made by the petitioner against that order, are legally justified or not?

The respective merits of the petitioner and respondent No.4 were to be considered by the respondent-corporation in terms of the guidelines dated 26.08.2003. There is no dispute that the petitioner had to offer plot having dimension of 20m x 18m to 32m x 30m, located in or around the advertised location for the construction of godown. The petitioner could have offered the said land under three categories viz. "owns land", "has firm offer from landowner" and "can arrange land". The petitioner in this case had offered the land in the category of "owns land". Initially, the petitioner was awarded 20 marks on account of the godown but after the decision of the Division Bench on 26.09.2013, on the basis of which applications of the petitioner and respondent No.4 have been re-evaluated, the said 20 marks meant for godown have been deducted because the plot offered by the petitioner under the category of "owns land" falls in Khasra No.338 and has been found to be 0K-09M, which was far less than the dimensions required for the plot for construction of the godown.

Counsel for the petitioner has only submitted that as per the jamabandi, he has much more land but he could not deny that the plot offered for the construction of godown was in Khasra No.338 in which he owned only 0K-9M of land and there is no evidence that it had already been partitioned. The land offered by the petitioner in Khasra No.338 is joint

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holding and even if it is alleged to have been partitioned on the basis of some affidavit, it has not been approved by the revenue authorities in terms of Section 123 of the Punjab Land Revenue Act, 1887. Thus, the petitioner has rightly not been allowed to change his category from “owns land” to “has firm offer from landowner” once he had applied for allotment of the LPG distributorship under the category of “owns land”.

Thus, looking from any angle, no merit is found in the present petition for the purpose of interference and hence, the same is hereby dismissed.

August 24, 2016
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned: Yes/No

Whether Reportable: Yes/No