

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1671 of 2013
IN
Civil Writ Jurisdiction Case No. 22597 of 2011**

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1. Ishwar Chandra Bhagat S/O Late Satyanarayan Bhagat Resident Of Village And Post- Singheshwar, District- Madhepura.

.... Appellant/s

Versus

1. The Hindustan Petroleum Corporation Ltd., (Hpcl), 17, Jamshedjee Tata Road, Mumbai- 400020 Through Its Chairman.
2. The Senior Regional Manager, The Hindustan Petroleum Corporation Ltd., (Hplc), Patna Lpg Region, 6th Floor, Loknayak Jay Prakash Bhawan, Dak Banglow Chowk, Patna.
3. Manish Kumar S/O Sri Ram Bahadur Singh Resident Of Village And Post- Singheshwar, Police Station- Singeshwar, District- Madhepura.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Viveka Nandsingh, Advocate
Mr. Ritesh Kumar, Advocate

For the Respondent/s : Mr. Sanjay Kumar Mishra, Advocate

For the HPCL : Mr (Dr.) Pankaj, Advocate

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**CORAM: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI
and
HONOURABLE JUSTICE SMT. NILU AGRAWAL**

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE AJAY KUMAR TRIPATHI)

Date: 09-03-2017

I. A. No. 9194 of 2013, which is a petition for condonation of delay of 38 days, is allowed for the reasons indicated in the said Interlocutory Application.

Appeal is thereafter taken up on merits.

The submission of learned counsel for the appellant against the impugned order, dated 25.09.2013, is that the Learned Single Judge committed error by dismissing his writ, as there is evidence that the private-respondent no. 3 has not genuinely and



bonafidely declared his actual place of residence since if he is not a resident of Singheshwar, selection ought not to have been made for grant of distributorship of LPG under Rajiv Gandhi Gramin LPG Vitrak Scheme.

The Court has gone through the materials as well as discussions made by the Learned Single Judge. He has dealt with all those evidences which show about the actual residence of the private-respondent. Cumulative effect of such a consideration is that the allegation made by the appellant against the selection of private-respondent on the ground of non-residence was rejected and the selection was held to be valid.

The Learned Single Judge has also taken note of a decision with regard to the residence issue, which was dealt with by the Hon'ble Supreme Court in the case of ***Bhagwan Dass and anr. Vs. Kamal Abrol and ors., reported in (2005) 11 SCC 66***. Paragraph 11 of the said decision has been reproduced by the Learned Single Judge and held that there are words known as “*de facto*” and “*de jure*” residence. Such a concept is not alien in law. Therefore, because of declaration with regard to the communication of the address given in some of the applications, it does not make private-respondent to be resident of that place.

The fact is that he is resident of Singheshwar, his family members and inheritance all lies at the village Singheshwar and therefore, such selection of respondent no. 3 cannot be said to be



illegal or irrational.

Appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

(Nilu Agrawal, J)

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