

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.1147 of 2016
Arising out of
Civil Review No. 249 of 2015**

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Hindustan Petroleum Corporation Limited through its Chairman, 17, Jamshedji Tata Road, Mumbai - 400020, represented by Chief Regional Manager & Duly Constituted attorney, Hindustan Petroleum Corporation Limited, Patna Retail Region, Loknayaak Jaiprakash Bhawan, 6th Floor, Dakbunglow Crossing Post Box No. 40, Frazer Road, Patna - 800001

.... Appellant/s

Versus

1. Sanjay Kumar Singh Son of Sri Prafulla Kumar Singh, Resident of Village - New Sidhauili, P.S. - Dehri - on - Sone, District - Rohtas at Sasaram.
2. Mukesh Pandey, Son of Sri Jagdeep Pandey, Resident of Village - Barahi,P.O. and P.S. - Akhorigora, District - Rohtas at Sasaram.
3. The General Manager, North Central Zone, Hindustan Petroleum Corporation Limited, 1, Nehru Enclave, Gomti Nagar, Lucknow - 226010 (U.P)
4. The Senior Manager, Network Planning, North Central zone, Hindustan Petroleum Corporation Limited, 1, Nehru Enclave, Gomti Nagar, Lucknow - 226010 (U.P)
5. The Senior Regional Manager, Hindustan Petroleum Corporation Limited, Patna Retail Region, Loknayaak Jaiprakash Bhawan, 6th Floor, Dakbunglow Crossing Post Box No. 40, Frazer Road, Patna - 800001
6. The Presiding Officer, Dealer Selection Committee, Hindustan Petroleum Corporation Limited, Patna Retail Region, Loknayaak Jaiprakash Bhawan, Dakbunglow Crossing, Post Box No. 40, Frazer Road, Patna - 800001.

.... Respondent/s

with

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Letters Patent Appeal No. 1148 of 2016

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Hindustan Petroleum Corporation Limited through its Chairman, 17, Jamshedji Tata Road, Mumbai - 400020, represented by Chief Regional Manager & Duly Constituted attorney, Hindustan Petroleum Corporation Limited, Patna Retail Region, Loknayaak Jaiprakash Bhawan, 6th Floor, Dakbunglow Crossing Post Box No. 40, Frazer Road, Patna - 800001

.... Appellant/s

Versus

1. Sanjay Kumar Singh Son of Sri Prafulla Kumar Singh, Resident of Village - New Sidhauri, P.S. - Dehri - on - Sone, District - Rohtas at Sasaram.
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6. The Presiding Officer, Dealer Selection Committee, Hindustan Petroleum Corporation Limited, Patna Retail Region, Loknayaak Jaiprakash Bhawan, Dakbunglow Crossing, Post Box No. 40, Frazer Road, Patna - 800001.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Chitranjan Sinha, Sr. Advocate
Mr. Rajeev Prakash, Advocate
For the Respondent/s : Mr. Mrigank Mauli, Advocate
Mr. Brisketu Saran Pandey, Advocate
Mr. Prince Kumar Mishra, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and



HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 10-05-2017

Challenging the original order passed in C.W.J.C. No. 18407 of 2012 on 19.09.2014 L.P.A. No. 1148 of 2016 has been filed and challenging an order passed on 04.05.2016 in Civil Review No. 249 of 2015 arising out of C.W.J.C. No. 18407 of 2012 L.P.A. No. 1147 of 2016 has been filed and as the question involved in both these appeals are identical, they are being disposed of by this common order.

In the matter of allotment of retail petroleum outlet dealership for location Serial No. 137 within two K.M. on either side of Akodhigola Block on Rajpur-Dehri Road, District- Rohtas when the appellant Hindustan Petroleum Corporation Limited cancelled the selection process and directed for conducting the selection process afresh, respondent Sanjay Kumar Singh, the candidate at Serial No. 2 filed the writ petition in question being C.W.J.C. No. 18407 of 2012 and it was his case based on Clause 19 of the guidelines to say that once on a complaint made the candidature of the most meritorious candidate at Serial No. 1 is cancelled the candidate at Serial No. 2 i.e. the petitioner Sanjay Kumar Singh should get the dealership.

The learned Writ Court examined the matter and found



that the prayer made by petitioner Sanjay Kumar Singh is not tenable. It is found that it was not a case where based on the complaint the dealership was cancelled or the selection process was cancelled. The complaint was vague and based on the complaint it was not cancelled and, therefore, in Paragraph 9 the Writ Court observed that the Court is not inclined to interfere with the impugned order passed by Hindustan Petroleum Corporation but as far as the direction for fresh advertisement and conducting fresh process of selection was concerned, the Writ Court directed that this can be done not by issuing a fresh advertisement but considering the case of the candidates who have already applied by holding fresh screening and interview process, accordingly, in Paragraphs 9 and 10 the following directions were issued:-

“9. In view of above, this Court will not inclined to interfere with the impugned order passed by the Hindustan Petroleum Corporation but then it is made clear that no fresh advertisement will be made and no fresh candidate will be considered. The impugned decision as it refers to holding of fresh interview of all the candidates, who were earlier screened and interviewed, will only be confined to them and their cases along would be considered by the Corporation.

10. The petitioner and other candidates will also not be allowed to produce any further



document beyond what has already been produced by them keeping in view that the requirement under the Advertisement itself had laid down of filing of such documents as per eligibility clause confining them to be only till the last date of filing of the application.”

When this was done, the appellant Corporation filed a review application being Civil Review No. 249 of 2015 and came out with a contention that in view of certain guidelines issued by the Government of India on 23.06.2014 which is filed as I.A. No. 6709 of 2016 in the record of L.P.A. No. 1148 of 2016 fresh advertisement has to be undertaken and, therefore, the order be reviewed and the petroleum company be permitted to take action as per this guideline issued on 23.06.2014.

The learned Writ Court considered this matter in Civil Review No. 249 of 2015 and found that when the writ petition was being heard and decided on 19.09.2014 neither in the counter affidavit filed nor during the proceedings in the writ petition this circular and guideline dated 23.06.2014 was relied upon or any submission made based on the same. The learned Review Court found that neither the circular and guideline dated 23.06.2014 was brought to the notice of the Court and as the writ petition was disposed of without taking note of the circular and this circular was



never relied upon, the Review Court refused to interfere into the matter. That apart, the Writ Court found that it was only in the nature of a guideline and non-consideration of the same will not make any difference and directed for conducting the process of interview and selection as directed in the original writ petition.

The only ground canvassed before us was that in view of this guideline the order passed by the learned Writ Court is unsustainable.

We find from the circular dated 23.06.2014 that it is only a guideline for selection of retail outlet and if certain guidelines issued by the Government of India in the Ministry of Petroleum and Natural Gas as already observed by the Writ Court it is a guideline, does not have any binding force and there is nothing available on record to indicate that in accordance to the said guidelines there was any change or policy made for effecting the system of grant of petroleum dealership. Apart from the fact that the guidelines did not form part of the proceedings before the Writ Court, before the Writ Court the entire dispute was adjudicated and decided based on the guideline for selection of retail outlet dealership notified by the Hindustan Petroleum Corporation Limited and in the said guideline based on which the selection process was conducted there was nothing to indicate that the circular in question form part of the



guidelines. On the contrary, the guidelines are available filed as Annexure-4 along with the writ petition and it is seen that Annxure-R/1 with the return filed by the Hindustan Petroleum Corporation, there is nothing to indicate that in these guidelines for selection of retail outlet dealership the guideline issued by the Ministry has been incorporated and the selection process was done in the backdrop of the aforesaid guidelines. Taking note of all these factors we see no reason to make any indulgence into the matter.

The Letters Patent Appeals are, therefore, dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

P.K.P.

AFR/NAFR	N.A.F.R.
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