

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.855 of 2016

- =====
1. The Indian Oil Corporation Ltd. Company, incorporated under the Companies Act, 1956 having its registered office at G-9, Ali Yavar Hung Marg, Bandra (East) Mumbai- 400051.
 2. The General Manager, Indian Oil Corporation Ltd. (Marketing Division), Bihar State Office, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chow, Patna- 800001.
 3. The Deputy General Manager (Retail Sales), Indian Oil Corporation Ltd. (Marketing Division), Bihar State Office, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chow, Patna- 800001.
 4. The Senior Divisional Retail Sales Manager, Regional Manager, Indian Oil Corporation Ltd. Marketing Division, Begusarai.
 5. The Fresh L1 Evaluation Committee, Indian Oil Corporation Limited, Bihar State Office, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chowk, Patna- 800001.

.... Appellant/s

Versus

1. Prakash Chandra Chaudhary son of Sri Tulsi Das Chaudhary resident of Falka Bazar, P.O. & P.S.- Falka, District- Katihar.
2. Sanjay Kumar Jha, Son of Sri Kamdeo Jha, resident of Village Sohtha, P.O. & P.S. Falka, District- Katihra, Bihar, Pin- 854118

.... Respondent/s

=====

Appearance :

For the Appellant/s	:	Mr. Anil Kumar Sinha, Mr. Amlesh Kumar Verma, Advocates
For Respondent No.1	:	Mr. Prahlad Kr. Bhagat, Advocate
For Respondent No.2	:	Mr. Amaresh Kumar Sinha, Advocate

=====

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 24-04-2017

Delay in filing the appeal is condoned and I.A.

No.3563 of 2016 disposed.

2. Seeking exception to an order dated 8.3.2016
passed by the learned Writ Court in C.W.J.C. No.2019 of 2015, this
appeal has been filed under Clause 10 of the Letters Patent by the



Indian Oil Corporation and challenge is made to an interference made in the allotment of a petroleum retail outlet, under the Kisan Seva Kendra by the learned Writ Court.

3. Facts, in brief, go to show that for the purpose of allotment of a petroleum retail outlet under the Kisan Seva Kendra an advertisement was issued on 12.8.2011. In the advertisement, the area for which the allotment was to be made was indicated as Giriyama and the condition stipulated was that the person making the application should have land situated within 1 k.m. radius from Giriyama Chowk. Allotment was made in favour of the private respondent Shri Sanjay Kumar Jha and respondent Shri Prakash Choudhary challenged the same by contending that the allotment has been wrongly made. It is seen that the complaint of the petitioner Shri Choudhary was referred to the Circle Officer and the Circle Officer and the District Magistrate caused an enquiry into the matter and came to the conclusion that the land of respondent No.6, to whom the dealership has been granted, is not situated at Giriyama Chowk. It is situated in Block Falka. Even though it is within a radius of 1 k.m. of the Giriyama Chowk on Falka-Gerabari Road, but as it was not situated in Giriyama, the learned Writ Court interfered into the matter. The findings recorded by the learned Writ Court read as under:

“Having considered the facts and circumstances



of the case and submissions of learned counsel for the parties, the Court has no hesitation to record a finding that the action of the I.O.C. has been totally against law and in fact patently illegal. The authorities having come out with the advertisement that the land had to be situated at Giriyama (within 1Km from Giriyama Chowk on Falka-Gerabari Road), the only requirement was that it should be in Giriyama within 1 Km on a particular well defined road. In the present case it is not in dispute that the land of the petitioner was within Giriyama *Mauza* in Falka Block as was the case of the land of the respondent no.6. However, the Circle Officer and the District Magistrate giving the interpretation that it was beyond the place called Giriyama has to be held to be not only erroneous but clearly collusive as well as trying to favour a particular party by making a distinction which does not stand to any reasonable test as a place Giriyama has the simple meaning and both land of the petitioner as well as respondent no.6 are situated in Giriyama *Mauza* under Falka Block and admittedly the position being that the land of the petitioner was within 1 Km on Falka-Gerabari Road from Giriyama Chowk, there cannot be any question of the petitioner not fulfilling the requirement relating to location. For the reason aforesaid, the action of the I.O.C. in allotting the dealership to respondent no.6 is bad in law and accordingly set aside. As a consequence, grant of L.O.I. and N.O.C. by any authority in favour of the respondent no.6 and all subsequent orders/action in his favour also stand automatically set aside.”

4. Learned counsel appearing for the Indian Oil Corporation vehemently argued that the learned Writ Court cannot sit as an appellate authority and interfere with the decision of the Corporation once the Corporation found that the land of respondent No.6 was within the prescribed limit.



5. However, having considered the aforesaid contention, we find that in the advertisement issued with regard to the allotment in question, it is clearly indicated that the allotment is for Giriyama. That being so, the land should be situated in Giriyama which is the 1st and primary condition and thereafter it should be within a radius of 1 k.m. from Giriyama Chowk on the Falka-Giriyama Road. Admittedly, in the fact finding enquiry conducted by the Circle Officer and the District Magistrate, it has been recorded that the land of respondent No.6 is not situated in Giriyama Chowk, but it is situated in Falka Block and once it is found that it is not situated in Giriyama Chowk, the learned Writ Court has not committed any error in recording the aforesaid finding.

6. We see no reason to make any indulgence into the matter. The appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Sudhir Singh, J)

K.C.jha/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	28.4.2017
Transmission Date	N/A

