

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.705 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 5986 of 2014**

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Binod Kumar Rai, son of Sri Ramdular Rai, resident of Village - Khakhra, P.O. -
Mujradh, P.S. - Kargahar, District - Rohtas.

.... Appellant/s

Versus

1. The Indian Oil Corporation Limited through its Chairman cum Managing Director, registered office situated at G - 9, Yali Yavar Jung Marg, Bandra (East), Mumbai - 400051.
2. The General Manager, Indian Oil Corporation Limited, Bihar State Office, Marketing Division, 5th Floor, Lok Nayak Jay Prakash Bhawan, Dakbunglow Chawk, P.S.- Kotwali, Town & District - Patna.
3. The Chief Manager (RS), Bihar State Office, Indian Oil Corporation Limited, Marketing Division, 5th Floor, Lok Nayak Jay Prakash Bhawan, Dakbunglow Chawk, P.S. - Kotwali, Town & District - Patna.
4. The Divisional Manager, Indian Oil Corporation Limited, Divisional Office, Mauryalok Complex, P.S. - Kotwali, Town & District - Patna.
5. The Dy. General Manager (RS), Bihar State Office, Indian Oil Corporation Limited, Marketing Division, 5th Floor, Lok Nayak Jay Prakash Bhawan, Dakbunglow Chawk, P.S. - Kotwali, Town & District - Patna.
6. Sri Santosh Kumar, son of Sri Hridya Narayan Rai resident of village - Sawan Bahar, P.O. - Badki Akhodi, P.S. - Kargahar, District - Rohtas.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Rajeev Prakash, Advocate

For the Respondent/s : Mr. Anil Kumar Sinha, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ANIL KUMAR UPADHYAY

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 25-07-2017

Seeking exception to an order dated 25.02.2016 passed
by the learned Writ Court in C.W.J.C. No. 5986 of 2014, this appeal
has been filed under Clause 10 of the Letters Patent.

The Indian Oil Corporation issued an advertisement in



the daily newspaper on 14.07.2010 for grant of I.O.C. retail outlet, namely, Kisan Seva Kendra for location Barhari at Kargahar Block of district Rohtas. Appellant submitted his candidature and claimed to have land measuring 3.77 acres in Plot No. 89, Khata No. 109. Based on the aforesaid in the category of fixed and non-movable assets, appellant was allotted 4 marks and by virtue of this he was empanelled at Serial No. 1 of the merit-list. However, complaints were received with regard to allotment of this mark to the appellant and the Indian Oil Corporation caused an inquiry into the matter and in the inquiry it was found that even though in his application submitted on 06.08.2010 along with report of valuar Ram Balak Prasad, appellant is shown to be owner of 3 acres and 77 decimal of land in Khata No. 109 but on verification by a bank through their duly appointed counsel it was found that the possession certificate submitted by the appellant on 06.08.2010 indicated that appellant was only in possession of 1.72 acres of land in Khata No. 109 which was contrary to the Valuation Report and on further inquiry it was found that in a family partition which was effected in the year 2008, except for 1.72 acres in name of the appellant, the entire remaining part of the land has gone in favour of Sri Ram Dular Rai, father of the appellant. Keeping in view the aforesaid, based on the investigation by communicating the following reasons, 4 marks granted to the



appellant were withdrawn and the merit-list re-drawn :-

“1. You had submitted land possession certificate dated 06-08-2010 in which 1.72 acres of land has been shown under Khata No. 109 whereas you have submitted valuation report dated 11-08-2010 for valuation of 3.77 acres of land under Khata No 109, having a value of Rs. 18.85 lacs in support of ‘Fixed and Non-Moveable Assets’ under the parameter ‘Capability to arrange Finance’.

2. In order to determine the actual area of land and yours’ share therein, the matter was referred to our appointed advocate. The advocate in his report has opined that you have total area of 3 acres 77 decimals of plot no. 118, 76, 248, 699, 150, 149, 135 and 157 of Khata 63, 12, 153 and 96 of Mouza Khakhadha in your share. The advocate has further opined that as per family partition, which had taken place in the year 2008, plot no. 89 of Khata no. 109 having an area 1.72 acre has gone to the share in favour of your father Shri Ram Dular Rai and you have no share in the subject plot, even though the same is mentioned in LPC dated 06-08-2010 and in the valuation report of Shri Ram Balak Prasad, a Govt. Approved Valuer.

3. In this regard, we would like to mention that as opined by your advocate, the total area of the land in your possession is 3.77 acres which is equivalent to the area as shown by the valuer. Though the area of the land is same as per lawyer and valuer’s



report but the plot 89 khata No. 109 is not in your possession though it is mentioned in the valuation report.

4. While evaluating, the committee has wrongly given full 4 marks to you under the head of 'Fixed and Non-Movable Assets' under the parameter 'Capability to arrange Finance' through the valuated plot is not in your possession.

5. Since document based error have been made while evaluating Sri Binod Kumar Rai under the subject parameter, re-evaluation of all the applicants were carried out and you have been awarded "zero" marks under head of 'Fixed and Non-Moveable Assets' under the parameter 'Capability to arrange Finance. After re-evaluation, your total mark has become 82.17 as compared to the earlier marks of 86.17."

Challenging this order, the writ petition was filed and the only ground canvassed was that as action is taken behind the back of the appellant without hearing him, the same is vitiated. However, before us also except for contending that no opportunity has been granted to the appellant and appellant had submitted a Valuation Report of a Government Valuar Sri Ram Balak Prasad, nothing is brought to our notice based on which the findings recorded by the Corporation can be termed as perverse or illegal. The learned Writ Court after taking note of these factors has refused to interfere into the



matter and we find no error into the same warranting reconsideration.

The Letters Patent Appeal is, therefore, dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
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