

IN THE HIGH COURT OF JUDICATURE AT PATNA

**Letters Patent Appeal No.597 of 2014
IN
Civil Writ Jurisdiction Case No. 3321 of 2011**

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Sushma Swaraj Wife Of Dr. Om Prakash Kumar, Resident Of Ganga Sadan,
Gautam Nagar, Ganjala District- Saharsa

.... Appellant

Versus

1. The Union of India, through its, Secretary, Ministry of Petroleum and Natural Gases, Govt. Of India, New Delhi
2. The State Of Bihar, Through, District Magistrate, Araria
3. The Deputy Collector Land Reforms, Forbisganj, Araria Null Null
4. Sub-Divisional Officer, Forbisganj, Araria
5. Circle Officer, Narpatganj, Araria
6. Indian Oil Corporation Limited, Through, Managing Director, Lok Nayak Bhawan, Dak Bunglow Road, Patna
7. The Area Manager, Indial Oil Corporation Limited (Marketing Building), Indane Area Office, Sahi Bhawan, 1st Floor, Exhibition Road, Patna- 800001
8. Sri Chandan Kumar Son Of Sri Ragho Lal Das, Resident Of Village And Post- Palasi, Police Station- Narpatganj, District- Araria
9. Sri Sanjay Kumar Agrawal Son Of Late Rameshwar Prasad Yadav, Resident Of R.N. Dutta Road, Forbisganj, 854318
10. Sri Aditya Kumar Son Of Sri Jagannath Prasad, Resident Of Village And Post Bazidpur, Police Station- Vidyapati Nagar, District Samastipur
11. Sri Vijay Kumar Das, Son Of Sri Hem Narayan Lal Das, Resident Of Village And Post Narpatganj, District Araria

.... Respondents

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Appearance :

For the Appellant : Mr. Rajesh Kumar Singh, Advocate
For the Respondent State : Ms. Manisha Singh, AC to GP-7
For the Respondent IOCL: Mr. Anil Kumar Jha, Senior Advocate
Mr. Sanat Kumar Mishra, Advocate
For the Respondent Nos. 8 & 9: Ms. Aishwarya Ritiu, Advocate
Mr. Avinash Shekhar, Advocate
For the Respondent No.10 : Mr. Rabindra Nath Kanth, 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: 04-04-2017

Heard counsel for the parties.

The present appellant was the petitioner in C.W.J.C. No.



3321 of 2011. Her case was tagged with yet another writ application, C.W.J.C. No. 6346 of 2011, heard and decided by a common order dated 24.09.2013. No appeal has been filed in C.W.J.C. No. 6346 of 2011. Therefore, the matter will rest so far as the parties to the dispute in the said writ are concerned.

The writ application, C.W.J.C. No. 3321 of 2011, was filed by the present appellant raising a grievance against the selection of private respondent Nos. 8 and 9, namely, Sri Chandan Kumar and Sri Sanjay Kumar Agarwal, who were selected for LPG distributorship by the Indian Oil Corporation Ltd. (for short 'IOC'). The said respondents were placed at serial number 1 of the panel. The present appellant was placed at serial number 3 and, therefore, the only way she could succeed in having a go at the dealership was by somehow knocking out the selected candidates at serial number 1, and at serial number 2. So far as the candidate at serial number 2, namely, Aditya Kumar, is concerned, he fought his own legal battle by approaching the High Court and he failed to get relief. He gave up his legal fight at that because the matter was not taken up any further.

Learned counsel for the appellant submits that the selected candidates did not have the requisite qualification on the cut off date. The date of advertisement was 19.01.2009 and the date of



interview was 06.08.2009. The ineligibility, according to the counsel, primarily related to the educational qualification which Chandan Kumar had at the relevant time. His stance is that he was not a degree-holder on the date of the interview. This position she has managed to obtain under R.T.I.

Such a submission with regard to the educational qualification is required to be rejected because there is adequate material to show that Chandan Kumar has completed his course of studies. If the degree had not been formally obtained by him, that is not disqualification in terms of educational qualification which he had already acquired. However, the Court is further informed that IOC did his background check and found that the requisite qualification of Chandan Kumar was very much in order and he had completed his course of studies for which he was given the marks in question and awarded degree.

The second limb of attack was that one Tej Narain Lal Das had executed a registered lease deed in favour of the selected candidate at serial number 1 in panel and he had no authority to do so because he did not possess the land. In fact, the real owner was Vijay Kumar Das and, therefore, that was a good ground for rejection of the claim of the first empanelled candidate.

There was some kind of a dispute going on between the



agnates, namely, Tej Narain Lal Das and Vijay Kumar Das, but then Vijay Kumar Das fought his own legal battle and lost before the High Court. Actual physical verification was done with the Circle Officer and the Revenue authorities with regard to possession and ownership of the land, which was leased out by Tej Narain Lal Das and it was found to be in order in the field investigation (F.I.R.) by the IOC and, therefore, this challenge or attack is also required to be negated.

With these background and findings, the learned single Judge refused to interfere with the selection of the private respondent Nos. 8 and 9 because he did not find any merit in any of the arguments which were made which could form the basis for declaring the selected candidates to be unqualified.

The dealership, in question, has been commissioned and is functional for almost seven years now on the same set of land which was offered on lease and no dispute has been raised from any quarter much less Vijay Kumar Das. This is so because of fact that the dispute raised as to the lease executed by Tej Narain Lal Das was more with the object of creating a doubt on the rightful selection of the candidates placed at merit position 1 of the panel.

The learned single Judge, therefore, after analyzing these facts and law has rightly rejected the writ application being



devoid of merit. On retesting the factual as well as the legal aspect, this Court also does not find anything amiss with the decision so rendered by the learned single Judge.

The appeal has no merit. It is dismissed.

(Ajay Kumar Tripathi, J)

Pawan/-

(Nilu Agrawal, J)

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