

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**Civil Writ Jurisdiction Case No.15390 of 2016**

- =====
1. Chaitanya Singh, S/o Sri Karan Singh, Resident of Village-Chaugain, P.O. Chaugain, P.S.-Murar, District-Buxar, Bihar.
  2. Vijay Pratap Singh @ Bijay Pratap Singh, S/o Late Ram Vilas Singh, Resident of Village-Indore, P.S.-Itahari, District-Buxar, Bihar

.... .... Petitioners

Versus

1. The Hindustan Petroleum Corporation Ltd. through the Chairman-Cum-Managing Director, 17 Jamshedjee Tata Road, Mumbai
2. The Director (Marketing), Hindustan Petroleum Corporation Ltd. 17 Jamshedjee Tata Road, Mumbai.
3. The General Manager (Retails), Hindustan Petroleum Corporation Ltd. North Zone, 1, Nehru Enclave, Gomti Nagar, Lucknow- 226010, Uttar Pradesh.
4. The Chief Regional Manager (Patna Retail), Hindustan Petroleum Corporation Limited, Lok Nayak Jaiprakash Bhawan, 5<sup>th</sup> Floor, Near Dak Bungalow Road Patna.
5. Arvind Pratap Sahi, S/o Ramesh Pratap Shahi, Resident of Village and Post-Chaugain, P.S.- Murar, District-Buxar.

.... .... Respondents

=====

**Appearance:**

For the Petitioner/s : Mr. Anil Kumar Sinha, Adv.  
Mr. Yash Mathur, Adv.  
For the Respondents: Mr. Rajeev Prakash, Adv.

=====

**CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY**  
**ORAL JUDGMENT**  
**Date: 10-03-2017**

Heard learned counsel for the petitioners and learned  
counsel for the Hindustan Petroleum Corporation Limited.

**2.** In this case, the petitioners have raised a grievance that they have been deprived to participate at the threshold of technical



bid in the auction, thereby deprived to participate in financial bid for the appointment of Retail Outlet Dealer, in between Interstariya Uchhch Vidhyalaya, Chaugain and Primary Health Centre, Chaugain, District- Buxar by the Hindustan Petroleum Corporation Limited.

3. The Hindustan Petroleum Corporation Limited (hereinafter referred to as “*Oil Company*”) issued an advertisement on 17.11.2014 for the appointment of Retail Outlet Dealer under the open category, invited applications from the eligible candidates. The petitioners and others have filed their applications under the open category, but the application of the petitioners has been rejected on the ground that they have not offered to transfer the land, on sale or on long lease to HPCL as mentioned in Clause-9(a) being incomplete application, led to its rejection.

4. Learned counsel for the petitioners submits that it is not a mandatory condition, as this undertaking could have been gathered by the Oil Company after their selection. He has tried to impress upon this Court the conditions of advertisement stipulates, applicants must show in the application that either is land holder or has taken the land on lease for 30 years. It has further been stated that Clause-4 of the Brochure of the Oil Company deals with



eligibility criteria for the individual applicants- proprietorship/Partnership, clause VI deals with condition of requirement of land, especially with respect to present case, in clause-VI (f) is relevant clause, which are as follows:-

*“f. There is no commitment by the Oil Company for taking the offered land from the applicant. If an applicant, after selection, is unable to provide the land indicated in the application within a period of 2 months (for Group 1) and 4 months (for Group 2) from the date of Letter of Intent (LOI), Oil Company will have the right to cancel / withdraw the LOI issued in favour of the selected candidate for allotment of dealership.”*

5. Learned counsel for the petitioners submits that the Clause-4 (vi) (f) shows that it is not mandatory that the Oil Company would take undertaking of transfer of land from the applicant. The aforesaid Clause only part conditions, if an applicant after selection, would unable to provide the land mentioned in the application within the period of 2 months (for Group 1) and 4 months (for Group 2) from the date of Letter of Intent (L.O.I.), Oil Company has the right to cancel/withdraw the L.O.I. issued in favour of the selected candidate.

6. Learned counsel for the petitioners further submits that



this event would come, after issuance of L.O.I., this Clause itself indicates that it is not mandatorily required to give undertaking to transfer the land either on sale or lease. He has also tried to buttress his argument by placing reliance on different parts of the Application Form, as per but Clause-9 of the Application Form details of land is to be provided. Clause-9(a) runs in the following manner “*Are you willing to transfer the land on sale/long lease to the Oil Company? YES/ NO. If yes, at what rate/term*”. But, this part statement has not been filled by the petitioner.

7. Learned counsel for the petitioners also submits that the petitioners have filled up part-B of Clause-9, but part-A of Clause-9 of the form has been left blank by the petitioners. Part-A of clause-9 mentions in the event of agreement, the petitioners will make declaration at what rate and on what terms the land will be transferred, so it cannot be said that it is mere a directory not a mandatory requirement to make such declaration.

8. Learned counsel for the petitioners has tried his best to pursue this Court to hold it is not a mandatory Clause by placing reliance on *the R.O. Dealer Selection Guidelines by Draw of Lots/Bidding : List of Non-rectifiable deficiencies in the application* and submitted that there is a provision for correction of



any mistake committed by the applicant, but the learned counsel for the Oil Company has pointed out in the said guideline at the bottom, where it has been provided that “ *No alteration/addition/deletion in the application form will be permitted except affixing of photograph and putting signature on the application form. The rectified or additional documents would be accepted only if they are pertaining to the information provided in the application form.*”, So, the learned counsel for the Oil Company submitted that the area where the petitioner could have altered or made addition or deletion does not cover the present dispute.

**9.** Learned counsel for the Oil Company submits that the action of the Oil Company cannot be said to be wrong exercise of the power. As the petitioner has not given proper information in the Application Form, is the cause of rejection of his Application Form.

**10.** This Court has already settled this issue in the various orders, one of which has been dealt with by this Court in C.W.J.C. No. 17036 of 2013 (Md. Sayeed Anwar vs. The Hindustan Petroleum Corporation Ltd. and Others) and in the said order, myself has held in the event the Application Form is not filled up



properly, the applicant cannot make a complaint of rejection of his application. This Court has also decided this issue in the case of *M/s. Indian Oil Corporation Limited and another vs. Raj Kumar Jha and Others*, reported in *2012(2) PLJR 783*, there also identical question was raised and the Court has refused to give direction to the Oil Company for allowing the petitioner to make any correction in the Application Form or to participate in the auction.

**11.** In the present case at the threshold i.e. at the stage of technical bid, the application of the petitioner has been rejected. He was given chance to file an objection, which was considered and rejected. In such view of the matter, this Court would not like to interfere with the exercise of power by the Oil Company. Hence, this writ application is dismissed. However, the petitioners, if so advised, may raise their grievance before the Chairman of the Hindustan Petroleum Corporation Limited.

**(Shivaji Pandey, J)**

pawan/-

|                   |            |
|-------------------|------------|
| AFR/NAFR          | N.A.F.R.   |
| CAV DATE          | N/A.       |
| Uploading Date    | 22.03.2017 |
| Transmission Date | N/A.       |

