

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.358 of 2016

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1. Sadanand Mandal Son of Shri Asharfi Mandal Resident of Village and Po - Sarauni Kala, Police Station -Bihariganj, District Madhepura.

.... Petitioner/s

Versus

1. The Union of India , through General Manager, Bihar State Office Indian Oil Corporation Limited (M.D.), Lok Nayaj Jai Prakash Bhawan (5th Floor), Dak Bunglow Chouk, Patna-800001
2. The Sr. Divisional Retail Sales Manager, Begusarai Divisional office, Po Barauni Oil Refinery, District Begusarai (Bihar), -851114
3. The State of Bihar through Principal Secretary, Land Reforms Department, Bihar,Patna.
4. The District Magistrate, Madhepura, District Madhepura.
5. The D.C.L.R. Uda Kishunganj Sub-Division , District Madhepura
6. The Circle Officer, Gwalpara Anchal, District Madhepura
7. The Circle Inspector , Gwalpur Anchal, District Madhepura.
8. The Revenue Karmchari , Saraunikala, Gram Panchayat , Ps. Bihariganj, Anchal-Gwalpur, District Madhepura.
9. Sri Mithilesh Kumar Gupta Son of Sri Ram Chandra Sah Resident of Village and Po. Sarauni, Kala, Police Station- Bihariganj, District Madhepura.

.... Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Kumar Ravi Shankar, Advocate
For the Respondent(IOC):		Mr. K.D. Chatterji, Sr. Advocate
		Mr. Amlesh Kumar Verma, Advocate
For Respondent NO.9	:	Mr. Ranjit Kumar Singh, Advocate
For the State	:	Mr. Jai Prabhat Kishore, Ac to SC 13

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CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

ORAL JUDGMENT

Date: 16-05-2017

Heard the parties.

In the present writ petition, petitioner has raised two grievances with regard to allotment of retail outlet under Kishan Seva Kendra Dealership at Sarauni, P.S. Bihariganj, District Madhepura.

Petitioner as well as respondent no.9 have participated in



the bid against the advertisement published by the Indian Oil Corporation for appointment of dealership under Kishan Seva Kendra Dealership. Respondent no.9 was selected as having given his own land and acquired more points during the selection and ultimately respondent no.9 has been selected for the dealership.

Learned counsel for the petitioner submits that by committing fraud he (respondent no.9) has obtained the dealership as the land which has been shown does not belong to him. The land is situated at Mauja Sarauni, P.S. Bihariganj, Thana No.222, Jamabandi NO.793, Khata No.493, Plot No.1996, area 41 decimals, as has been stated, respondent no.9 along with other parties have purchased the land from one Mahendra Prasad Gupta along with his wife Smt. Karuna Devi.

Learned counsel for the petitioner further submits that report of the Circle Officer discloses that petitioner is only owner of 23 decimals of land and rest land is not under the ownership of respondent no.9. Second ground which has been taken is that respondent no.9 is the husband of Mukhiya and a large number of cases have been lodged for defalcation of Government money which was allotted for public purpose has been consumed by him. Petitioner has filed complaint before the competent



authority of Indian Oil Corporation who has made enquiry with regard to the items mentioned in the application and by a reasoned order rejected the allegation made by the petitioner. He further submits that reason assigned by the authority is not sustainable in view of the report of the Circle Officer as well as from the antecedent shows involved in misappropriating the Government money and as such it requires interference by this Court whereas learned counsel for the Indian Oil Corporation has filed counter affidavit denied claim of the petitioner. In the counter affidavit of the Indian Oil Corporation and private respondent they have attached the sale deed which discloses that 41 decimals of land has been offered by the respondent belongs to him as well as the decision taken by the authority concerned reflects overwhelming consideration of every aspect of the matter, arrived at finding of bereft of substance of the allegation made by the petitioner. In support of his contention learned counsel for the Indian Oil Corporation has placed reliance in the case of Sanjay Kumar Shukla v. Bharat Petroleum Corporation limited and others, reported in (2014)3 SCC 493 wherein the Court while dealing with the power and scope of judicial review has set out the guideline for interference with the said action of the authority in circumstance when order suffers from any



illegality, mala fide and smacks of any victimization. The complaint which was made by the petitioner has been gone into by the authority concerned by passing detailed order and to finding that found that respondent no.9 is the owner of the land which he has offered, merely report of Circle Officer can not be the basis of interference.

Learned counsel for the Indian Oil Corporation has pointed out that letter of intent on account of pendency of litigation with regard to the retail outlet has not been issued in favour of respondent no.9.

Having considered the rival contentions of the parties it appears that two points have been raised, one is in respect of land which is not substantiated as attached documents remove the confusion of ownership of land. Any entry in the sherista of the State Government does not create or extinguish the right and tile over the property but it is merely for the purposes of depositing the rent, right and title is decided on the basis of the document as in the present case land has been purchased. This part of argument, having offered the wrong land is completely not sustainable. Of course, while issuing the letter of intent the authority will be obliged to examine and verify the credentials of respondent no.9 after giving opportunity of hearing and after proper examination of his past



activity will take a decision in accordance with law. This Court directs the authority of the Indian Oil Corporation will decide the matter of credential of respondent no.9 within a period of two months from the date of receipt/production of a copy of this order. While deciding the matter the authority of the Indian Oil Corporation will call a report from the Collector and other competent authority, if any.

This Court directs the authority of the Indian Oil Corporation to examine the credential of respondent no.9. While considering the credentials, the authority will examine the guideline issued by the Indian Oil Corporation from time to time.

With the aforesaid observation and direction this writ petition is disposed of.

(Shivaji Pandey, J)

Vinay/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	29.5.2017
Transmission Date	NA

