

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.244 of 2016

Arising out of

Civil Writ Jurisdiction Case No. 5418 of 2014

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Pradeep Kumar Trishul, Son of Sri Anukul Prasad, Resident of Sri Kunj Flat No. 15, Phase 1, Ashiyana Nagar, P.S- Rajeev Nagar, Patna.

.... Appellant/s

Versus

1. Hindustan Petroleum Corporation Limited, Through its Senior Regional Manager, Patna, 6th Floor, Loknaya Jai Prakash Bhawan, Dak Bangala Chowk, Patna
2. The Senior Regional Manager, Hindustan Petroleum Corporation Limited 6th Floor, Loknaya Jai Prakash Bhawan, Dak Bangala Chowk, Patna
3. The Chief Manager, Hindustan Petroleum Corporation Limited Patna 6th Floor, Loknaya Jai Prakash Bhawan, Dak Bangala Chowk, Patna
4. The Senior Manager Legal, Hindustan Petroleum Corporation Limited Patna 6th Floor, Loknaya Jai Prakash Bhawan, Dak Bangala Chowk, Patna
5. The Deputy General Manager, Hindustan Petroleum Corporation Limited Patna 6th Floor, Loknaya Jai Prakash Bhawan, Dak Bangala Chowk, Patna
6. Madhuri Devi, Wife of Shri Mohan Kumar, Resident of Village +P.O.- Arai, PS Daudnagar, District Aurangabad.

.... Respondent/s

with

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Letters Patent Appeal No. 545 of 2016

Arising out of

Civil Writ Jurisdiction Case No. 16973 of 2014

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Madhuri Devi, Wife of Shri Mohan Kumar, Resident of Village+P.O.- Arai, PS Daudnagar, District Aurangabad.

.... Appellant/s

Versus



1. The Hindustan Petroleum Corporation Limited , 17, Jamshed Ji Tata Road, Mumbai-400020 through the Chairman- cum-Managing Director.
2. The Chairman-cum-Managing Director, Hindustan Petroleum Corporation Limited, 17, Jamshed Ji Tata Road, Mumbai-400020
3. The Chief Manager (Network & Planning), Hindustan Petroleum Corporation Limited, North Central Zone, Lucknow.
4. The Senior Manager (legal), Hindustan Petroleum Corporation Limited, North Central Zone, Lucknow.
5. The Deputy General Manager, Hindustan Petroleum Corporation Limited, North Central Zone, Lucknow.
6. The Senior Regional Manager, Hindustan Petroleum Corporation Limited , 6th Floor , Lok Nayak Jai Prakash Bhawan, Dak Bungalow Road, Patna.
7. Pradeep Kumar Trishul, son of Shri Anukul Prasad, Resident of Flat No. 15 Shri Kunj, Phase -I, Ashiana Nagar, Patna-800025

.... Respondent/s

with

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Letters Patent Appeal No. 331 of 2016
Arising out of
Civil Writ Jurisdiction Case No. 16973 of 2014

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Pradeep Kumar Trishul, S/o Shri Anukul Prasad, Resident of Flat No. 15 Shri Kunj Phase I Ashiana Nagar, Patna - 800025

.... Appellant/s

Versus

1. The Hindustan Petroleum Corporation Ltd. 17 Jamshed Ji Tata Road, Mumbai 400020 through the Chairman -cum- Managing Director
2. The Chairman -cum-Managing director, The Hindustan Petroleum Corporation Ltd. 17 Jamshed Ji Tata Road, Mumbai 400020
3. The Chief Manager (Network & Planning) Hindustan Corporation Limited North Central Zone, Lucknow.
4. The Senior Manager (legal), Hindustan Corporation Limited North Central Zone, Lucknow.
5. The Deputy General Manager, Hindustan Petroleum Corporation Limited North Central Zone, Lucknow.



6. The Senior Regional Manager, Hindustan Petroleum Corporation Limited 6 th Floor Lok Nayak Jai Prakash Bhawan Dak Bunglow Road Patna.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ajay Kumar Thakur, Advocate

Mr. Sanjeet Kumar, Advocate

For the Respondent/s : Mr. Rabindra Nath Kanth, Advocate

Mr. S.B.K. Manglam, 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: 17-07-2017

As common questions of law and fact are involved in all these three cases and challenge in these cases are made to a common order dated 06.07.2015 passed in C.W.J.C. No. 5418 of 2014 and C.W.J.C. No. 16973 of 2014, all the three appeals are being heard and decided by this common order.

2. An advertisement was issued by M/s Hindustan Petroleum Corporation Limited on 22.09.2011 for grant of a petroleum outlet in National Highway No. 98, District- Arwal, Bihar between Paharpur More to Thakur Bigha. Various applicants including the appellants herein, namely, Sri Pradeep Kumar Trishul and Madhuri Devi applied. After scrutiny of the applications not only



of the appellants herein but also other eligible candidates and after conducting inquiry, a merit-list was prepared by the Interview Board on 07.11.2012 wherein Pradeep Kumar Trishul, one of the petitioners was declared to have received 84.61 marks and kept at Serial No. 1 of the panel. The other petitioner Madhuri Devi was placed at Serial No. 2. Madhuri Devi made a complaint questioning the legality of the lease-deed executed in favour of the petitioner Pradeep Kumar Trishul and, therefore, an inquiry was ordered into the entire matter by the Petroleum Company and the complaint made was found to be partly established. The Technical Evaluation Committee found that with regard to Right of Way (ROW) on the location which was taken by the Internal Technical Assessment Committee to be 30 metres from the centre was actually less than that i.e. 22.5 metres only, as was confirmed by the Executive Engineer, National Highway and taking note of all these factors, the entire panel was cancelled and an order was passed for readvertisement. That is how, the matter came to this Court and the two writ petitions were filed challenging the act of the department. Pradeep Kumar Trishul challenged the act of cancellation of the panel and the Inquiry Report and Madhuri Devi challenged the action of the respondent Petroleum Company in issuing fresh advertisement. It was her case that once Pradeep Kumar Trishul is found to be ineligible, she being the second in the panel, should be



granted the petroleum outlet.

3. The learned Writ Court evaluated the issues in question and formulated three questions to be answered. Question No. 1 was as to whether the selection of Pradeep Kumar Trishul was bad and warranted cancellation and the 2nd question was that even if the selection of Pradeep Kumar Trishul was bad, whether on cancellation of his selection the dealership should have been given to the petitioner Madhuri Devi or the entire panel liable to be cancelled. These two questions have been answered by the learned Writ Court by holding that once the Right of Way was found to have been improperly considered and when there were materials before the petroleum company to show that the selection process was not properly conducted, the decision taken by the competent authority at the highest level to cancel the entire list and readvertise the outlet cannot be interfered with. As far as the contention of Madhuri Devi based on guidelines 19(b)ii(a) to say that once the panel is cancelled, the second in the panel has to be granted the dealership is concerned, the learned Writ Court found that once it was found that the established norms were not fulfilled and the Technical Evaluation Committee found primary error in the entire selection process, it was the finding of the learned Writ Court that the clause and the guidelines do permit readvertisement and the readvertisement has been upheld.



4. Finally the third question was as to whether the policy of reservation could be followed based on a circular issued on 23rd of June, 2014 when the original advertisement in this case was issued much prior to that in the year 2011.

5. The learned Writ Court considered the implication of the circular, reproduced it and found, based on the wordings of the circular, that the circular would applied to all such selection which have held even on the basis of selections cancelled and redone on established complaints.

6. The learned Writ Court, in our considered view, has gone into all these aspects of the matter and has rejected the writ petitions by a detailed order and has upheld the act of the Corporation in directing for reselection into the matter and we see no reason to make any indulgence into the matter.

7. The Letters Patent Appeals are, accordingly, dismissed.

(Rajendra Menon, CJ)

(Anil Kumar Upadhyay, J)

P.K.P.

AFR/NAFR	N.A.F.R.
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