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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP-20873-2012

Date of decision : 16.01.2017

Amarjeet Kaur

... Petitioner

Versus

Union of India and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Jagdish Manchanda, Advocate with
Mr. Ravi Gakhar, Advocate
for the petitioner.

Mr. Ashish Kapoor, Advocate
for respondent Nos.2 and 3.

AMIT RAWAL, J. (ORAL)

The petitioner is aggrieved of the impugned order dated 31.10.2013 (Annexure P-10), whereby his application for consideration of KSK (Kisan Seva Kendra) Dealership at Rattak, Assandh Sirsal Road, District Karnal, has been rejected on the premise that the jambandi for the year 2008-09 attached with the application showed that the few co-owners have taken a loan against the joint property.

Mr. Jagdish Manchanda, learned counsel assisted by Mr. Ravi Gakhar, learned counsel appearing on behalf of the petitioner submits that the petitioner, in pursuance to the advertisement, applied for the aforementioned dealership and also enclosed the copy of the lease-deed (Annexure P-1) duly registered with the Office of Sub-Registrar, much less, copy of the jamabandi. The lease-deed was executed by Manjit Kaur in

favour of the petitioner. The other co-sharers had also filed an affidavit (Annexure P-5) giving no objection. Even *aks shajra* was also attached, much less, site plan (Annexure P-7). On 26.09.2012, the petitioner was called for interview, but she has been declared unqualified on the premise that no marks have been given under Column No.1 i.e. infrastructure. She has been awarded 35 marks out of 100 for infrastructure and facilities (potentiality of the land).

He further submits that the order (Annexure P-10) had been passed without affording any opportunity of hearing. Had the opportunity of hearing been given, the petitioner would have explained with regard to the alleged loan liability or the descriptions of the property which was free-from encumbrance, thus, there is a clear cut violation of the principles of *audi alteram partem*.

Mr. Ashish Kapoor, learned counsel appearing on behalf of the respondent Nos.2 and 3 submits that the assessment of the land is done on spot inspection and on verification the revenue record. The revenue record, itself, reveals that the bank have a lien on the same which is a clear cut violation of the provisions, terms and conditions of the Brochure (Annexure P-12). There has to be a clear title of land owned/registered sale deed as on the date of the application. Having failed to prove title, the lease deed was inconsequential, thus, submits that the order under challenge is liable to be sustained.

I have heard the learned counsel for the parties and appraised the paper book and of the view that for rejecting the application of the petitioner vide Communication (Annexure P-10), the petitioner should have been given one opportunity to explain the particulars of the land as

described in the lease deed commensurating with the particulars of the jamabandi. Having failed to do so, whatever the facts which have now been disclosed, basically should have been act of ponderance by the Indian Oil Corporation, thus, in my view, there is a clear cut violation of principles of *audi alteram partem*, in essence, the petitioner should have been given effective opportunity of hearing to explain the aforementioned aspects i.e. Mortgage, clear title etc.

For the foregoing reasons, the order dated 31.10.2013 (Annexure P-10) is not sustainable and the same is hereby set aside/quashed with the liberty to the respondent(s) to afford an opportunity of hearing to the petitioner with regard to the particulars of land.

The petitioner is also given liberty to produce all the particulars and give explanation and thereafter, decision may be taken, in this regard.

Resultantly, the writ petition is allowed in the aforementioned terms.

16.01.2017

Yogesh Sharma

**(AMIT RAWAL)
JUDGE**

✓

Whether speaking/reasoned **Yes/ No**

✓

Whether Reportable **Yes/ No**