

CWP No.1689 of 2014 (O&M)

[1]

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

**CWP No.1689 of 2014 (O&M)
Date of decision:27.10.2017**

Surinder Kumar

...Petitioner

Versus

The Union of India and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Dr. Surya Parkash, Advocate,
for the petitioner.

Mr. Ashish Kapoor, Advocate,
for respondents no.2 to 4.

Mr. Rakesh Gupta, Advocate,
for respondent no.5.

Rakesh Kumar Jain, J. (Oral)

CM No.15385-CWP of 2017

Application is allowed, as prayed for.

Replication to the written statement of respondent no.2 to 4 is
taken on record.

CWP No.1689 of 2014

This petition is filed for quashing the order dated 30.11.2013
(Annexure P-29) passed by the respondents by which claim of the petitioner
for allotment of LPG Distributorship has been rejected.

In brief, the Indian Oil Corporation Limited (hereinafter referred
to as the "Corporation") issued an advertisement on 18.09.2006 for inviting
applications for allotment of LPG Distributorship at Rajpura in the

'Handicapped Persons' category. The petitioner made the application alongwith requisite documents. He was in fray alongwith respondent no.5 but respondent no.5 was given more marks than the petitioner at the time of evaluation of documents and, thus, respondent no.5 was initially declared successful. However, the petitioner challenged the selection of respondent no.5 before this Court in CWP No.15762 of 2009 and, thereafter, claim of respondent no.5 was rejected. Ultimately, Letter of Intent (LOI) was issued to the petitioner on 07.07.2010.

It is an admitted case that when the petitioner applied for the allotment of LPG Distributorship, at that time he was the owner of the land measuring 05 kanal 18 marlas, falling in khasra no.516. However, the said land was sold by him on 21.05.2009 and at the time of Field Verification Report (FVR), which was conducted on 16.05.2010, the petitioner made the team of the Corporation believe that he was still the owner of the land which was offered by him at the time when he applied for allotment of the LPG Distributorship. In this process, he submitted documents viz. jamabandi for the year 2001-02 dated 29.03.2010, jamabandi for the year 2006-07 dated 26.03.2010 and also the Non-Encumbrance Certificate dated 06.04.2010 issued by the Sub Registrar, Rajpura in order to show that he is still the owner of the property in question which was offered by him for the purpose of constructing the godown and the showroom. It is also an admitted fact that the petitioner re-purchased the land in question on 06.09.2010 and constructed the showroom on the same land and also constructed the godown on separate land.

The case of the petitioner is that the respondents, vide impugned order dated 30.11.2013, cancelled the LOI issued to him on the ground that he

had made false averment before the officers who had conducted the FVR, by projecting that he is the owner of the land in question as on that date, i.e. 16.05.2010, whereas the land was re-purchased by him on 06.09.2010. It is further submitted that while passing the impugned order, opportunity of hearing was not granted to him and that there was no intention of the petitioner of any kind of concealment because in the revenue record, i.e. jamabandis referred to above, name of the petitioner was reflected and, thus, he had obtained the Non-Encumbrance Certificate from the Sub Registrar, Rajpura on the basis of his previous ownership of the property in question. It is further submitted that the alleged concealment was not so material so as to cancel the LOI issued in favour of the petitioner. It is also submitted that the petitioner had sold the land on 21.05.2009 when respondent no.5 was given 7 marks more than him by misconstruing the provisions of the brochure.

On the other hand, learned counsel for the Corporation has submitted that no doubt that the petitioner had submitted the documents of ownership at the time when he made the application for seeking the distributorship but the issuance of LOI is not suffice as the petitioner had to pass the hurdle of the FVR as well. It is further submitted that the team conducting the FVR had associated the petitioner on 09.04.2010 and in pursuance thereof, the petitioner submitted the documents, namely, aforesaid two jamabandis and Non-Encumbrance Certificate under his signatures on the same day. Thereafter, the Corporation received a complaint that the documents submitted by the petitioner are not genuine because he had sold the property on 21.05.2009 and was ceased to be the owner thereof on the date when he submitted the documents for the purpose of FVR. The Corporation made the

investigation in the complaint and ultimately found that the petitioner was not the owner of the property in question on the date when the documents were submitted for the purpose of FVR and it is also an admitted fact as well that the petitioner had re-purchased the property on 06.09.2010, i.e. much after the date on which the FVR was conducted on 16.05.2010 and the LOI was issued on 07.07.2010.

It is further submitted that insofar as the question of opportunity of hearing is concerned, the petitioner was associated by the team conducting the FVR and had the full opportunity to submit the genuine documents but he opted to submit the fake documents, much-less not showing his ownership over the land in question and, thus, the Corporation, while invoking Clause 19 (h) of the advertisement, passed the order of cancellation. It is also submitted that the concealment on the part of the petitioner is material because if he was not the owner of the land in question, then there was no occasion for him to have made the Corporation believe that he was still owner of the property by virtue of fake documents.

I have heard learned counsel for the parties and examined the available record with their able assistance.

Since this petition is filed only to challenge the order of cancellation of LOI issued to the petitioner, therefore, the issue involved in this case is as to whether the Corporation has erred in cancelling the LOI issued to the petitioner while invoking Clause 19(h) of the advertisement?

In order to answer this question, it would be relevant to refer Clause 19(h) of the advertisement, which reads as under:-

“19 (h) if any statement made in application or in the document enclosed therewith or subsequently submitted in pursuance of the

application by the candidate at any stage is found to be incorrect or false, the application is liable to be rejected without assigning any reason and in case the applicant has been appointed as a distributor, the distributorship is liable to be terminated. In such cases the candidate/distributor shall have no claim whatsoever against IOC.”

The petitioner knew about Clause 19(h) of the advertisement because he had filed the application for allotment of LPG Distributorship on the basis of the advertisement only and also knew that he was not the owner of the property in question when he had tendered the documents of his ownership to the team conducting the FVR, therefore, it is apparent that the petitioner had deliberately made a false statement before the FVR team for the purpose of securing the LOI, which was subsequently issued to him on 07.07.2010. Clause 19(h) is very specific as it is provided therein that if the documents submitted in pursuance of the application, even submitted subsequently, are found to be incorrect or false at any stage, then the Corporation would be authorized to pass the order of cancellation of LOI or termination of the distributorship and in such case, the candidate would have no claim.

It is not a case where the petitioner has been taken by a surprise by invoking Clause 19(h) of the advertisement, therefore, he is not to blame others as the finger is pointed towards him as he had submitted false documents to the Committee who conducted the FVR.

In my considered opinion, it is the material concealment on the part of the petitioner because ownership of the property, which is being offered by the petitioner for the purpose of construction of showroom and godown, is quite material in case of grant of LPG Distributorship and since the petitioner had deliberately concealed this fact from the Corporation in order to obtain the LOI, therefore, the Corporation has rightly invoked Clause 19(h) of the

advertisement while cancelling the LOI issued in favour of the petitioner.

It is also submitted by learned counsel for the petitioner that the Corporation cannot discriminate with the petitioner as according to him, respondent no.5 has also committed mistakes which were overlooked by the Corporation.

This argument of the petitioner is of no avail because the petitioner himself is at fault and cannot blame others much-less respondent no.5.

It is proved on record that the petitioner did not submit the requisite documents candidly and tried to conceal the very fact that he was not the owner at the time of FVR of the land in question which was offered by him at the time of application.

In view of the above, I do not find any merit in the present petition and hence the same is hereby dismissed though without any order as to costs.

October 27, 2017
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(Rakesh Kumar Jain)
Judge

Whether speaking / reasoned:	Yes/No
Whether Reportable:	Yes/No