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

Date of decision : 17.04.2017

1.

CWP-18419-2015 (O&M)

Neelam

... Petitioner(s)

Versus

Union of India and others

... Respondent(s)

2.

CWP-13009-2015 (O&M)

Manpreet Kaur

... Petitioner(s)

Versus

Union of India and others

... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present: Mr. Vinay Kumar Pandey, Advocate
for the petitioner in CWP-18419-2015.

Mr. Satnam Chauhan, Advocate
for the petitioner in CWP-13009-2015.

Mr. Aseem Aggarwal, Advocate
for respondent Nos.1 to 3 in CWP-18419-2015 and
for respondent Nos.1 to 4 in CWP-13009-2015.

Mr. Raman Sharma, Advocate
for respondent No.4 & 5 in CWP-18419-2015 and
for respondent Nos.5, 7 & 8 in CWP-13009-2015.

Mr. Ashish Kapoor, Advocate
for respondent No.6 in CWP-13009-2015.

AMIT RAWAL, J. (ORAL)

CM-5156-2016 IN CWP-18419-2015 AND

CM-5146-2016 IN CWP-13009-2015

Prayer in the applications under Order 1 Rule 10 (2) CPC read

with Section 151 CPC is for striking out respondent No.3 from the array of respondents.

Mr. Aseem Aggarwal, learned counsel appearing on behalf of the applicant(s)/respondent(s) in both the applications submits that the present applications have been rendered infructuous.

In view of above, both the applications are ordered to be dismissed as infructuous.

CM-12931-2016 IN CWP-18419-2015

The application is allowed.

Replication/rejoinder to the written statement filed by respondent Nos.4 and 5 is taken on record.

**CM-12935-2016 IN CWP-18419-2015 AND
CM-12934-2016 IN CWP-13009-2015**

The applications are allowed.

Reply to the applications filed by respondent No.3 for striking out its name from the array of respondents is taken on record.

CM-12932-2016 IN CWP-13009-2015

The application is allowed.

Replication/rejoinder to the written statement filed by respondent No.6 is taken on record.

MAIN CASES

This order of mine shall dispose of two writ petitions bearing **CWP No.18419 of 2015** titled as **“Neelam V/s Union of India and others”** and **CWP No.13009 of 2015** titled as **“Manpreet Kaur V/s Union of India and others”**.

The facts are being taken from the petition bearing CWP

No.18419 of 2015.

The challenge in the present writ petition is to the order dated 15.04.2015 (Annexure P-8), whereby the candidature of the petitioner for allotment of the LPG Distributorship at Dabuda Khurd, District Jhajjar under OBC Category, has been rejected.

Mr. Vinay Kumar Pandey, learned counsel appearing on behalf of the petitioner(s) submits that as per the guidelines and the brochure for the selection of the LPG Distributorship published by the Bharat Petroleum Company Ltd./respondent(s), there was certain pre-conditions to be complied with by the applicant to provide the availability of the land in the name of the petitioner or by virtue of registered lease deed for minimum 15 years for the consideration of the candidature. However, the petitioner had submitted the documents i.e. lease of land khewat No.864/774, khata No.910, of village Bupania, Tehsil Bahadurgarh, District Jhajjar, but the same had been surrendered vide document No.1728 dated 16.06.2014 and had offered an alternate land in his name in Village Dabuda Khurd, as per sale deed dated 19.01.2015, but the same has been rejected on the premise that the registration of the land had been beyond the last date of the submission of the application which was 20.12.2013 and therefore, the candidature has erroneously been rejected.

During the course of hearing, learned counsel for the petitioner has drawn the attention of this Court to the communication dated 15.07.2015 to all the Companies issued by the Indian Oil Corporation regarding affording of opportunity to offer land in response to the advertisement, later than the last date of submission of the application

which was based upon the instructions dated 30.04.2015 issued by the Ministry of Petroleum & Natural Gas.

Mr. Raman Sharma, learned counsel appearing on behalf of the respondent(s)/Bharat Petroleum Co. Ltd., does not dispute the aforementioned letter and instructions and submits that in this regard, the petitioner has already submitted a representation dated 29.04.2015 (Annexure P-9).

He further submits that the aforementioned letter would apply prospectively, but not retrospectively, thus, urges this Court for dismissal of the present writ petition.

I have heard the learned counsel for the parties and appraised the paper book.

For the sake of brevity, the contents of the letters dated 15.07.2015, 30.04.2015 & 15.04.2015, handed over by learned counsel for the petitioner, during the course of the hearing, read as under:-

" Letter dated 15.07.2015

Subject:- Opportunity to offer alternative land in response to the advertisement-Flexibility in guidelines-regarding.

This has reference to MOP&NG's letter reference P-43011/16/2015-IOC dated 30.04.2015 on the above subject. Ministry has advised the OMCs to give opportunity to the selected candidate (LOI holder) to offer alternate land for construction of godown/showroom facility and furnish comments/necessary action taken.

Regular LPG Distributorship Selection Guidelines (March 15) and RGGLV Selection Guidelines (Dec.14) provide that once the candidate is selected and offered LOI based on the field

verification (FVC), the LOI holder would require constructing the LPG godown and showroom facilities at the same premises as mentioned in the application form or at the alternate land offered by the candidate as physically verified by the FVC Committee and found suitable. The details of the land on which he/she is to construct godown/showroom are specified in the LOI.

In view of the instructions received from MOP&NG as per above referred letter to give opportunity to the selected candidate (LOI holder) to offer alternate (better) land for construction of godown/showroom facility, Industry Working Group deliberated on the issue in depth. The guidelines for Selection of Regular LPG Distributorship and Guidelines for Selection of RGGLV shall be revised by suitable amendments incorporating conditions that take into account factors like security/safety consideration, better title (owned V/s lease) and economic feasibility of a particular piece of land.

The above is issued on behalf of the Industry.

Letter dated 30.04.2015

Subject:- Opportunity to offer alternative land in response to the advertisement-Flexibility in guidelines-regarding.

Sir/Madam

I am directed to refer to this Ministry's letter of even number dated 15th April 2015 (copy enclosed) on the above cited subject.

2. You are requested to furnish comments/necessary action taken on the instructions of MOS(IC), P&NG to this Ministry at the earliest.

" Letter dated 15.04.2015

Subject:- Opportunity to offer alternative land in response to the advertisement-Flexibility in guidelines-regarding."

Sir/Madam

I am directed to say that MOS(I/C), P&NG have received some representations regarding requests for change in the land which was originally offered by the selected candidate. The following instructions of MOS (I/C) are conveyed for necessary action/comments:-

- (i) The candidate should be given an opportunity to offer alternative land. The guidelines should be made flexible and eschew any kind of rigidity in approach.*
- (ii) However, such conditions should not be unqualified. First and foremost, the land originally offered in the application should meet all the specifications as laid down in the advertisement and on the basis of which LOI has been issued or proposed to be issued. If the land offered in the application does not meet the specifications laid down in the advertisement then the request of the candidate should not be entertained.*
- (iii) While considering such cases, OMCs may lay down such other conditions and take into account factors like security/safety considerations, better title (owned vs lease) and economic feasibility of a particular piece of land."*

On perusal of the aforementioned contents of the letters, it would lead to irresistible conclusion that an opportunity has been given to the such applicant to offer the land, in essence, there is a flexibility and ground of rejection is on the premise of non-availability of the land at the time of the submission of the application. The land which has been actually been made available, according to the respondent(s), had been beyond the date.

Keeping in view the aforementioned contents of the letters, I

deem it appropriate to dispose of the writ petitions with a direction to the respondent No.4 to decide the representation (Annexure P-9) and representation which has been handed over by Mr. Vinay Kumar Pandey to Mr. Raman Sharma, in consonance with the aforementioned contents of the letters, as expeditiously as possible preferably within a period of two months from the date of the receipt of the certified copy of this order, after affording the opportunities of hearing to the petitioner.

Since the petitioner in CWP-13009-25015, according to Mr. Raman Sharma, has not submitted any representation, the petitioner shall be at liberty to submit the representation and the same shall also be decided in the aforementioned terms.

The decisions shall be rendered by respondent No.4 influenced to the reasoning given in the impugned letter 15.04.2015 (Annexure P-8).

Both the writ petitions are disposed of in the aforementioned terms.

17.04.2017
Yogesh Sharma

(AMIT RAWAL)
JUDGE

✓

Whether speaking/reasoned

Yes/ No

✓

Whether Reportable

Yes/ No