

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP-21640-2017

Date of Decision: 21.9.2017

Sarvesh Prasad

....Petitioner.

Versus

Bharat Petroleum Corporation Ltd., Mumbai and others

...Respondents.

**CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.
HON'BLE MR. JUSTICE AMIT RAWAL.**

PRESENT: Mr. Tejeshwar Singh, Advocate for the petitioner.

AJAY KUMAR MITTAL, J.

1. In this writ petition filed under Article 226 of the Constitution of India, the petitioner has prayed for issuance of a writ in the nature of certiorari for quashing the Provisional Result dated 19.8.2017 (Annexure P-21) declared by respondents No.1 and 2 depriving the petitioner of 25 marks. Further, a writ of mandamus has been sought directing respondents No.1 and 2 to revise and modify the marks allotted to the petitioner by granting him 25 additional marks on account of having the requisite experience of providing or directly engaging more than 10 persons as manpower for more than one year in the selection process of Service Providers for Bharat Petroleum Corporation Ltd., Corporation Owned and Corporation Operated Retail Outlet at Asalwas, NH-8, Rewari, Haryana notified vide advertisement dated 27/28.2.2017 (Annexures P-1 and P-2, respectively).

2. Respondents No.1 and 2 invited applications vide detailed advertisements dated 27.2.2017 (Annexure P-1) and dated 28.2.2017 (Annexure P-2) for Selection of Service Provider for COCOs as detailed in the Brochure dated 1.1.2017 (Annexure P-3). The selection was to be made from two sources, i.e. through advertisement and nomination from Director General for Resettlement. In response thereto, the petitioner applied for appointment as Service Provider for four retail outlets including the Asalwas (Rewari) Retail Outlet vide application dated 30.3.2017 (Annexure P-4). The petitioner was working with Krishna Filling Station as is clear from the certificate dated 24.3.2017 (Annexure P-5) issued by Krishna Filling Station whose corresponding ESIC Registration Certificate is dated 23.2.2012 (Annexure P-6). The petitioner has been providing services to M/s Om Parwati Security Services Pvt. Ltd. and M/s Jindal Arya Impex Pvt. Ltd. As is discernible from the certificates dated 8.3.2017 (Annexure P-7) issued by M/s Om Parwati Security Services Pvt. Ltd., corresponding EPFO Registration Certificate dated 4.1.2016 (Annexure P-8) and the certificate dated 9.3.2017 (Annexure P-9). Vide letter dated 30.6.2017 (Annexure P-10), Bharat Petroleum Corporation Ltd. through its Territory Manager requested the petitioner to submit certain documents by 21.7.2017. The petitioner submitted reply dated 20.7.2017 (Annexure P-11) to the said letter, Annexure P-10 along with the documents including the Corresponding Wage-cum-Attendance Registers (Annexure P-12 Colly) and Corresponding Receipts of Remittance (Annexure P-13 Colly) made to ESIC for March, 2016 and February, 2017. The petitioner made a representation dated 25.7.2017 (Annexure P-14) to respondent No.1 regarding the apprehension of misinterpretation of Clause 5.2.2 of the

Brochure. Vide letter dated 31.7.2017 (Annexure P-15), the petitioner was called for the interview and to be present for the same on 19.8.2017. The petitioner also sought legal opinion dated 14.8.2017 (Annexure P-16), according to which, the petitioner was entitled to maximum 25 marks under the heading “capability to provide suitable manpower” as per Clause 5.2.2. Vide e-mails dated 15.8.2017 and 16.8.2017 (Annexures P-17 and P-18, respectively), the petitioner informed respondents No.1 and 2 regarding his apprehension for maximum marks under the heading “capability to provide suitable manpower” due to wrong interpretation of Clause 5.2.2. The petitioner vide letter dated 17.8.2017 (Annexure P-19) handed over a letter along with the legal opinion, Annexure P-16, to the concerned Selection Committee. The petitioner participated in the interview and interacted with the Selection Committee. However, he was not awarded 25 marks under the heading “capability to provide suitable manpower”. Thereafter, the petitioner made a complaint dated 7.9.2017 (Annexure P-20) along with Annexures, under Clause 19 of the Terms and Conditions of Brochure for Selection of Service Provider for COCOs to respondent No.2, but no response has been received till date. As per the Provisional Merit List along with the Provisional Result dated 19.8.2017 (Annexure P-21), the petitioner was awarded zero marks under the head in question. Hence, the present writ petition.

3. Learned counsel for the petitioner submitted that for the relief claimed in the writ petition, the petitioner has submitted a complaint dated 7.9.2017 (Annexure P-20) to respondent No.2, but no action has so far been taken thereon.

4. After hearing learned counsel for the petitioner, perusing the

present petition and without expressing any opinion on the merits of the case, we dispose of the present petition by directing respondent No.2 to take a decision on the complaint dated 7.9.2017 (Annexure P-20), in accordance with law by passing a speaking order and after affording an opportunity of hearing to the petitioner within a week from the date of receipt of the certified copy of the order.

(AJAY KUMAR MITTAL)
JUDGE

September 21, 2017
gbs

(AMIT RAWAL)
JUDGE

Whether Speaking/Reasoned

Yes/No

Whether Reportable

Yes/No