

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANAAT CHANDIGARH**

CWP No.22394 of 2017

Date of Order: 20.12.2017

Bikramjit Singh

....Petitioner

Versus

Hindustan Petroleum Corp. Ltd & Anr.

....Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present : Mr. Veneet Sharma, Advocate for the petitioner.

Mr. Raman Sharma, Advocate for the respondents.

RAKESH KUMAR JAIN, J (ORAL)

The Hindustan Petroleum Corporation Limited (for short “HPCL”) issued an advertisement on 10.9.2011 for awarding LPG Distributorship at Amritsar, District Amritsar under the Scheduled Caste Category. The last date for submission of the application was 10.10.2011. The petitioner applied in time along with the requisite documents. He was found eligible in the list of applicants published on 16.8.2012 for draw of lots which was held on 23.11.2012 in which he was successful. However, his candidature was rejected on 15.5.2013. During the Field Verification Credentials (FVC), the following shortcomings were found:

“1. In your application at Sr.no.9, you have declared that you are having a plot for godown of 27m x 26.15 mtr. However this information was found wrong and from registered lease deed the land offered for godown is only 25.915 x 26.82 m and hence not meeting the minimum size required for 8000 Kg LPG godown. Hence you are failing in basic eligibility criteria for selection of LPG Distributorship Guideline 2011.

2. As per LPG Selection Guideline 2011, the land for godown should have motorable approach road (public road or private land of applicant connecting to the public road). In your case the connecting approach road to godown plot from Public road is a private road and does not belong to you. There are several owners to this private road. Though you have submitted affidavit from two of owners, and not from all owners, it means you are not having motorable approach road upto your plot for godown.

3. You have submitted copies of registered lease deeds for godown/showroom which were valid upto 03.10.2012 i.e you are not having valid registered lease for showroom and godown.”

Accordingly, the candidature of the petitioner was cancelled on 15.5.2013 on the ground that he was not meeting the eligibility criteria as stated in the LPG Selection Guidelines of April 2011. The petitioner challenged the said order by way of writ petition bearing CWP No.14028 of 2013 in which notice was issued.

In the meantime, the original allottee of the LPG Distributorship, namely, Sohan Lal Amrohi, who was aggrieved against the cancellation of his allotment, became successful before the Hon'ble Supreme Court and the cancellation of his allotment was set aside and the aforesaid writ petition was dismissed as infructuous vide order dated 22.5.2014 passed by this Court, observing as under:

“Learned counsel for respondent No. 2 has informed the Court that Hon'ble the Supreme Court in the SLP filed by Sohan Lal Amrohi has set aside the order passed by the Single Judge and the decision of the

Corporation to terminate dealership agreement dated 04.03.2008 was declared illegal and was quashed and the Corporation was directed to restore the dealership of the appellant within a period of three months from today i.e 12.08.2013. Thereafter a review application was filed by HPCL, which was also dismissed on 24.04.2014.

Thus, the present petition filed by the petitioner for directing the respondents to issue the letter of intent for the LPG distributorship at Amritsar, Distt. Amritsar, has become infructuous.

Dismissed as having become infructuous. However, the petitioner can avail alternative remedy apart from the prayer made in this Court, in accordance with law.”

However, the distributorship of said Sohan Lal Amrohi was again terminated on account of some other violations and as such the LPG Distributorship at Amritsar became available. Thereafter, the HPCL wrote a letter dated 05.8.2017 to the petitioner, informing that as per the revised Guidelines conveyed by the Ministry of Petroleum & Natural Gas, his application has been re-considered and his candidature was revived subject to the following grounds:

“Submit details of land owned/leased by your or your father/mother/grandfather and grandmother as on last date of application i.e 10.10.2011 within 7 days on receipt of this letter.”

The petitioner filed a detailed reply to the letter dated 05.8.2017 on 30.8.2017 besides tendering certain affidavits. Ultimately, on 15.9.2017, the impugned order was passed and his candidature was again cancelled as he had allegedly failed to avail the option given to him in terms of the

revised guidelines conveyed by the Ministry of Petroleum & Natural Gas vide letter P17011/7/2010-LPG dated 25.02.2016. The contents of the letter dated 15.09.2017 are reproduced as under:

“You were selected in the draw which was held on 18/12/2012. After draw detailed verification of documents were carried out w.r.t the information provided in your application. During verification, following discrepancies were observed:

- 1. Lease deed offered for godown and showroom was valid upto 03/10/2012 which was not valid as on date of verification.*
- 2. The dimensions of land offered for godown was not meeting the eligibility criteria.*
- 3. Not having valid approach road upto your plot for godown.*

As you had failed to meet the eligibility criteria, thus, your candidature was cancelled vide our letter dated 15.05.2013.

Now, as per revised guidelines conveyed by Ministry of Petroleum & Natural Gas vide letter P17011/7/2010-LPG dated 25.02.2016, your application was re-considered and accordingly you were advised to submit details of alternate land owned by/leased to you or your father/mother/grandfather/grandmother as on last date of application i.e 10/10/2011 to proceed further in the matter as per revised guidelines vide our office letter dated 05/08/2017.

In response to above, you have submitted the reply dated 30/08/2017 along with various affidavits. We have reviewed all the documents and concluded that the documents submitted by you are not fulfilling the basic eligibility criteria. Moreover you have not been able to provide any alternate land as on date of application (i.e 10/10/2011) owned/leased by your family unit, as mentioned above and thus failed to fulfill basic eligibility

criteria.

In view of your failure to meet basic eligibility criteria, as stated hereinabove, your selection in the draw stands cancelled.”

Learned counsel for the petitioner has, at the threshold, vehemently argued that the letter dated 25.02.2016 has not even seen the light of the day which has been made the basis for the purpose of giving another option to the petitioner for submitting the details of alternate land owned/leased which is required for the godown and showroom. It is submitted that even if the guidelines dated 25.2.2016 as stated in the impugned order are correct, it should operate from the date it is issued and not from the last date of submitting application. It is also submitted that the registered lease agreement of 16 years was executed in favour of the petitioner on 04.10.2011, which is sufficient to satisfy the condition of possessing the land.

In reply, Sh. Raman Sharma, Advocate has submitted that the lease deed dated 04.10.2011 is of no use at present because of a condition therein that if the lessee fails to get the dealership of LPG Distribution within one year from the date when the lease deed was submitted, then the lease deed would automatically stand terminated and the lessee will not have any right to claim anything. The relevant extract of the Deed are reproduced hereunder:

“It is also pertinent to mention here that if Lessee fails to get the dealership of LPG Distribution within one year from the start of this lease deed then this Lease Deed will automatically terminated and Lessee will not have any right to claim as per this deed. So this

lease agreement for a period of 16 years has been written so that it may remain a proof.”

Learned counsel for the respondents has also referred to clause (b) of Section 111 of the Transfer of Property Act, 1882 which mandates that “A lease of immovable property determines where such time is limited conditionally on the happening of some event-by the happening of such event”. According to him, the lease deed was conditional, which was dependent on obtaining of dealership of LPG Distribution within one year by the lessee and with the efflux of time if the lessee failed to obtain the same within the stipulated period, then the lease deed becomes nonest and redundant. He has also referred to the meaning of “own” which has reference in clause 6(i) and 7(i) of the Brochure and read as under:

“Own” means having ownership title of the property or registered lease agreement for minimum 15 yrs in the name of applicant/family member as defined in multiple distributorship norm of eligibility criteria. In case the land is jointly owned by the applicant/member of 'Family Unit' (as defined in multiple dealership/distributorship norm) with any other person(s) and the share of the land in the name of applicant/member of the 'Family Unit' meets the requirement of land including the dimensions required, then that land for godown/showroom will also qualify for eligibility as own land subject to no objection from other owner(s).”

It is further submitted by learned counsel for the respondents that since this case pertains to re-consideration of the application of the petitioner, therefore his eligibility is to be seen on the last date of the application i.e 10.10.2011. It is further submitted that had it been a case

where the location was advertised afresh then the matter would have become altogether different but in this case the Ministry of Petroleum & Natural Gas has decided to re-consider the application of the petitioner on his offering the land owned/leased by his or his father/mother/grandfather and grandmother as on last date of application. It is further submitted that the said option was not availed by the petitioner because he did not produce any such document to the satisfaction of the respondent-HPCL for the purpose of reconsidering his application qua allotment of the dealership.

I have heard learned counsel for the parties and after examination of the record, am of the considered opinion that there is no merit in the present petition because in the matter of allotment of dealership of the LPG, the parties are governed by the LPG Selection Guidelines and the Instructions issued by the Ministry of Petroleum & Natural Gas from time to time. The eligibility has to be seen on the last date of the application. The petitioner had applied well in time along with the requisite documents and at that time, it was found that the lease deed submitted by the petitioner was in place. However, with the passage of time, it was found that the lease deed submitted by the petitioner became redundant because of the condition therein, therefore, there is no valid lease deed and the offer made to the petitioner vide letter dated 15.9.2017, on the basis of guidelines dated 25.2.2016, that his application would be re-considered if he would submit details of alternate land owned by/leased to him or his father/mother/grandfather/grandmother, as on last date of application i.e 10.10.2011, was not availed by him as he did not submit any document to the satisfaction of the respondent-HPCL. The contention of learned counsel

for the petitioner, thus, cannot be accepted that the guidelines dated 25.2.2016 issued by the Ministry of Petroleum & Natural Gas should have been prospective and not w.e.f 10.10.2011. As a matter of fact, it is a case where the pending application of the petitioner was being re-considered because the distributorship of LPG became available to the respondent-HPCL after the distributorship in favour of the original allottee Sohan Lal Amrohi was cancelled.

Thus, in my considered opinion, no case is made out warranting any interference.

Dismissed.

December 20, 2017
manoj

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable : Yes/No