

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.26828 of 2016 (O&M)
Date of Decision: November 21, 2017

Parvinder Singh

. . . . Petitioner

Vs.

Bharat Petroleum Corporation Ltd. and others

. . . . Respondents

CORAM: - HON'BLE MR. JUSTICE RAKESH KUMAR JAIN

Present: Mr.C.M. Munjal, Advocate,
for the petitioner.

Mr.Raman Sharma, Advocate,
for the respondents.

RAKESH KUMAR JAIN, J. (ORAL)

The petitioner has challenged the order dated 15.11.2016 by which he has been held ineligible for the regular LPG distributorship.

In short, the three oil companies, namely, Indian Oil Corporation Limited [for short 'the IOCL'], Hindustan Petroleum Corporation Limited [for short 'the HPCL'] and Bharat Petroleum Corporation Limited [for short 'the BPCL'], jointly issued an advertisement on 05.12.2011 to invite applications for the purpose of allotment of LPG distributorship at 17 different places in Punjab in which Ahmedgarh, District Sangrur was reserved for SC category. The petitioner, who belongs to the SC category, applied for the said distributorship and also submitted a registered lease deed dated 2.1.2012 in order to fulfill the eligibility criteria of having land for godown on lease for a period of 15 years. Per chance, the said advertisement was shelved and again, on 26.10.2013, all the oil companies published a fresh advertisement for the

same purpose and this time applications were invited for 198 different sites in which LPG distributorship for Schedule Caste category for Ahmedgarh, District Sangrur was shown at Sr. No.142, to be allotted by the BPCL, for the market plan 2013-2014. The petitioner applied in view of the said advertisement along with the registered lease deed dated 2.1.2012. On 14.12.2013, the petitioner received a letter from the BPCL intimating him about the two deficiencies in his application, namely, *(i) completed application as per prescribed format and (2) corrected appendix 2 from mother of the applicant- 'Unmarried' son to be mentioned & BPCL to be mentioned in place of BPCL.* The petitioner was, thereafter, invited to be present at the time of draw of lots, scheduled to be held on 17.8.2016, in which he was successful. However, in the letter dated 19.8.2016, he was informed that if in the Field Verification Credentials [for short 'the FVC'] the information given by him in his application is found to be false/incorrect/misrepresented, affecting his eligibility, then the amount of ₹25,000/- deposited by him before conducting the FVC would be forfeited and his candidature could be cancelled.

The FVC was conducted and at that time it was found that the registered lease deed submitted by the petitioner dated 2.1.2012 was not meeting the credential of 15 years as it has been found short by a period of 1 year and 10 months. The petitioner wrote a letter that at the time of FVC he was not having any alternate site for the godown (LPG) for sub location however, he could provide the land as he was fully capable of purchase or execute a lease deed at short notice. On 15.11.2016, the petitioner was informed that the lease deed submitted by him fails to meet the minimum criteria of 15 years from the date of advertisement i.e. 26.10.2013 and that he had been given opportunity to submit details of additional/alternate land but he

could not provide the same by confirming vide his letter dated 20.9.2016. The said order dated 15.11.2016 has been impugned in the present writ petition, *inter alia*, on the ground that the petitioner was never given any opportunity to submit the details of the alternate land otherwise he had already mentioned in his letter dated 20.9.2016 (Annexure P-8) that he is fully capable to purchase or execute a lease deed for 15 years starting from the date of advertisement i.e. 26.10.2013. The whole case of the petitioner hinges upon this argument that he has not been given due opportunity by the respondents. In this regard, he has referred to the provisions of the Brochure or guidelines of the Regular LPG Distributors of March 2015 in which it is provided that *“in case if the offered land for godown/godown and offered land for showroom/showroom by the selected candidate which is shown in the application is not found meeting the eligibility conditions/requirements as stipulated in the advertisement/brochure/application at the time of Field Verification of Credentials (FVC), then the selected candidate can offer an alternate land which is owned by the applicant / member of the ‘Family Unit’/parents & grandparents (both maternal and paternal) of the applicant as on the last date for submission of application as specified either in the advertisement or corrigendum if any. In case at the time of FVC, the candidate expressed inability to make available an all weather motorable approach road upto the godown as per above criteria, such alternate land will be considered subject to its suitability for providing LPG godown and showroom facility as mentioned hereinabove”*.

Learned counsel for the BPCL has submitted that merely because the petitioner was successful in the draw of lots does not give him an absolute right to seek the allotment because the information supplied by him at the time

of filing his application has to be assessed at the time of FVC. It is further submitted that since there was a fresh advertisement dated 26.10.2013, therefore, the petitioner was required to provide the registered lease deed for a period of 15 years starting from 26.10.2013 and in this regard, he has referred to Clause 6.1(viii)(b) of the Brochure which provides that *“registered lease deed having minimum 15 years of valid lease period commencing on any day from the date of advertisement up to the last date of submission of application as specified either in the advertisement or corrigendum (if any)”*. He has also referred to Clause 8.5 of the Brochure dealing with the ‘procedure for receipt of application’ in which it is provided that the deficiencies which cannot be rectified includes Clause (f) which provides that *“does not have land for godown/showroom as per the eligibility criteria”*. He has also referred to Clause 10 of the Brochure which deals with the ‘Field Verification of Credentials (FVC), which reads as under:-

*“10. FIELD VERIFICATION OF CREDENTIALS
(FVC)*

- a. Verification of the information given in the application by the applicant with the original documents and with the issuing authorities wherever required is called Field Verification of Credentials (FVC)*
- b. Field verification will be carried out for the selected candidate as per laid down procedure. If in the FVC, the information given in the application by the applicant is found to be correct. Letter of Intent (LOI) will be issued with the approval of competent authority.*
- c. If in the FVC it is found that information given in the application is at variance with the original documents and that information affects the*

eligibility of the candidate, then a letter would be sent by Registered Post AD / Speed Post pointing out the discrepancy. Candidature of selected candidate in such a case will be cancelled and 10% of applicable security deposit remitted by the selected candidate before FVC will be forfeited if false/incorrect/misrepresented information has been given in the application.”

Learned counsel for the respondents has further submitted that the petitioner was given the offer to provide the alternate site but it should be as on the date of application and in this regard he has also relied upon the provision of the Brochure which has been relied upon by the petitioner and is mentioned hereinabove. It is also submitted that the petitioner has to provide alternate land on the last date of submission of application and not after the submission of application.

I have heard learned counsel for the parties and after examining the record, am of the considered opinion that there is no merit in the present petition because the petitioner had admittedly submitted the registered lease deed pursuant to the advertisement dated 26.10.2013 which was short by a period of 1 year 10 month and was not meeting the criteria of 15 years. It is also not disputed that this error is not rectifiable, however, in terms of the provisions of the Brochure including Clause 6.1(viii)(2), referred to above, the petitioner is allowed to give alternate land which is owned by him or the family unit/parents & grand parents (both maternal and paternal) on the last date of submission of the application as specified either in the advertisement or corrigendum if any. The petitioner did not fulfill even the said criteria and has offered to give the alternate land now at the stage when the FVC has been

conducted against him and it has been found that the registered lease deed submitted by him is not valid.

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

NOVEMBER 21, 2017
Vivek

(RAKESH KUMAR JAIN)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>