

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Civil Writ Petition No.7525 of 2015

Date of Decision: May 17, 2017

Sharda Nand

...Petitioner

Versus

Union of India & others

...Respondents

CORAM: HON'BLE MR.JUSTICE AMIT RAWAL, JUDGE

Present: Mr.Rakesh Dhiman, Advocate,
for the petitioner.

Mr.Satish Singla, Advocate,
for respondent No.1.

Mr.Rajbir Singh, AAG, Haryana,
for the State.

Mr.Aman Arora, Advocate,
for respondent Nos.3 & 4.

AMIT RAWAL, J. (Oral)

The grievance of the petitioner, in essence, has already been noticed in the notice of motion order dated 23.4.2015, which reads as under:-

“It is the contention of the counsel for the petitioner that the only ground for rejecting the candidature of the petitioner vide a communication dated 16.03.2015 (Annexure P-7) is that the residence certificate submitted by the petitioner has not been issued within six months from the date of affidavit from the concerned District. He contends that as per the Haryana Government Instructions dated 30.01.2004 (Annexure P-5), once a residence certificate is issued, the same remains valid till the address is changed. Petitioner was issued the residence

certificate on 30.09.2006 (Annexure P-4), which was appended along with the application and since the petitioner continued to reside at the same address since his birth, therefore, fresh residence certificate was not required to be issued to him. He further contends that the petitioner had in response to the communication received by the respondent-oil company dated 19.01.2015 (Annexure P-3), replied on 03.02.2015 (Annexure P-6), where he specifically mentioned that he is residing at the same address and, therefore, no fresh residence certificate is issued for the same address. The Instructions of the Government of Haryana dated 30.01.2004 (Annexure P-5) were also appended with the said reply. He, therefore, contends that the impugned order of rejection of the candidature of the petitioner dated 16.03.2015 (Annexure P-7) cannot sustain.

Notice of motion for 05.10.2015.

Allotment, if any, of the Petrol Pump in question shall be subject of the decision of the writ petition”

In response to the aforementioned contention noticed, Mr.Aman Arora, learned counsel representing respondent Nos.3 and 4 has emphatically relied upon the condition, i.e., the eligibility criteria. For the purpose of considering the applications of the persons desirous of allotment of retail outlet, the residence certificates issued within previous six months of the date of affidavit shall be considered to be valid one.

Learned counsel for the petitioner submits that vide impugned order dated 16.3.2015 (Annexure P-7), the candidature of the petitioner has been rejected on the ground of not furnishing residence certificate issued within previous six months as the petitioner was issued residence certificate on 30.9.2006 (Annexure P-4), which was enclosed along with the application and as per the Haryana Government instructions dated 30.1.2004 (Annexure P-5), if the persons is resident of the area and has not

changed the residence, the certificate would be valid.

Mr.Aman Arora submits that no doubt this Court, while issuing notice of motion, had ordered for allotment of the petrol pump subject to the decision of the present writ petition. However, LOI has been issued in favour of one Mahesh.

Be that as it may, prior to passing of the impugned order, the petitioner was issued a show cause notice dated 19.1.2015 (Annexure P-3) to comply with the aforementioned condition, which is stated to have been replied by the petitioner vide Annexure P-6, whereby he had clearly indicated that he has not changed his residence and the certificate submitted by him is valid one, yet the respondents had an audacity to reject his candidature of having not furnished the residence certificate alleged to have been valid within previous six months.

In my view, the order dated 16.3.2015 (Annexure P-7) is totally atrocious. Once the petitioner had specifically pointed out of having not changed the residence, meaning thereby the petitioner had been resident in the aforementioned address within a period of six months. The aforementioned fact should have been taken into consideration and resultantly the letter of allotment should have been issued. The approach, in my view, of the Hindustan Petroleum had not been pragmatic.

In view of what has been noticed above, the impugned order, Annexure P-7, is hereby quashed. The residence certificate produced by the petitioner, i.e., Annexure P-4 shall be considered to be valid and conforming to the requirement of the brochure. Resultantly, the Hindustan Petroleum Corporation shall follow the necessary procedure by treating the application to be valid one in all aspects as the sole criteria for rejection was on account

of non-furnishing of the residence certificate. The necessary corollary would follow.

Writ petition stands disposed of with the aforementioned observations.

However, this order of mine shall not be construed as a precedent.

May 17, 2017
ramesh

(AMIT RAWAL)
JUDGE

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No