

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

**LPA no.329 of 2017 (O&M)
Date of Decision : 06.03.2017**

Daljit Singh

....Appellant(s)

Versus

Hindustan Petroleum Corporation Ltd. and others

...Respondent(s)

**CORAM : HON'BLE MR.JUSTICE MAHESH GROVER
HON'BLE MR JUSTICE DR. SHEKHER DHAWAN**

Present : Mr.Ashok Goel, Advocate for the appellant

MAHESH GROVER, J.(ORAL)

The instant appeal is directed against the judgment of the learned Single Judge dated 24.8.2016. The appellant responded to an advertisement on 14.2.2004 for grant of a retail outlet for LPG cylinders under the defence category. One of the conditions was that an incumbent should have a plot of 20m x 18m to 32m x 30m for construction of a godown on the date of application. The appellant was initially declared successful and letter of intent was also issued. However, this was questioned by the unsuccessful candidate to result in negation of the writ proceedings but the LPA Bench disposed of the appeal with the following directions:-

“We thus dispose of this appeal with the following

agreed directions:-

- i) The Headquarter of North Zone of

respondent no.1 Corporation will constitute a committee to look into the applications of the two parties.

ii) The applications filed earlier alongwith the material placed on record at that stage of time would be taken into account.

iii) Both the parties will be heard to explain their respective stands. In order to have an effective hearing, the materials placed by both the parties will be handed over to the opposite party by the committee.

iv) The marks will be reassigned based on the advertisement published and criteria applicable as on the date of advertisement and thereafter reasoned orders be passed, to be communicated to both the parties.

v) The allotment will be made on the basis of the result of the committee.”

The Committee then reappraised the matter to declare the respondent no.4 as successful which was challenged by the appellant in the writ proceedings to result in dismissal and is a cause of grievance to the appellant in the present appeal.

Learned Single Judge noticed that at the time of making the initial application the appellant failed to offer a clear plot of land in terms of the requirement for the godown as he was not the absolute owner of that land, being a co-sharer with others, who though had given the affidavits relinquishing their claims in favour of the appellant but still did not make him an absolute owner in the absence of partition in the revenue records.

His case was thus treated to be in a category where there was a 'firm offer

from landowner' entitling to lesser marks than a person who was owning the land as respondent no.4 did. The retail outlet was thus granted in his favour and has been functional ever since. During the pendency of the writ proceedings the grant was made subject to the outcome of the writ petition.

Learned Single Judge also noticed that a change in the category was impermissible and the land that was in clear ownership of the appellant was merely 0k-09 marlas comprising in khasra no. 338 and short of requirement.

After hearing the learned counsel for the appellant who has raised arguments which were primarily raised before the writ Court as well, we do not find any legal infirmity committed by the learned Single Judge so as to warrant any interference in the LPA. The appellant was clearly not the owner and was rightly treated in the other category where people with a firm offer of land were evaluated by assigning lesser marks.

Learned counsel for the appellant then contends that pursuant to the initial grant, he had also invested a huge amount by constructing a godown and thus suffered a financial loss and the committee ought to have considered the change in category on equitable grounds even if the conditions did not permit so.

This argument raised on the issue of equity would have to be turned down considering that the respondent no.4 has since invested equally and has made the retail outlet operational and thus accepting the prayer of the appellant to grant a relief on equity would entail unsettlement of equity qua respondent no.4, a course rendered undesirable for this reason as also for the reason of there being no illegality committed in the process.

For the reasons stated above, we do not find it to be a fit case to

warrant any interference and the instant appeal is hereby dismissed.

However, delay of 108 days in re-filing the appeal is hereby condoned.

(Mahesh Grover)
Judge

06.03.2017
rekha
Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No

(Shekher Dhawan)
Judge