

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.944 of 2017

IN

Civil Writ Jurisdiction Case No. 17401 of 2011

With

Interlocutory Application No. 4727 of 2017.

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1. The Hindustan Petroleum Corporation Limited (A Government of India Enterprises) having its registered office at 17, Jamshedji Tata Road, Mumbai – 400020, through its Chief Regional Manager, Retail, Patna Regional Office & its duly constituted Attorney, posted at its Regional Office at Patna situated at Lok Nayak Jai Prakash Bhawan, 6th Floor, Post Box No. 40, Dak Bungalow Chawk, Patna,
 2. Hindustan Petroleum Corporation Limited (A Government of India Enterprises) having its registered office at Lok Nayak Jaiprakash Bhawan, 6th Floor, Post Box No. 40, Dak Bungalow Chawk, Patna, through its Chief Regional Manager, Retail, Patna Regional Office & its duly constituted Attorney, posted at its Regional Office at Patna situated at Loknayak Jai Prakash Bhawan, 6th Floor, Post Box No. 40, Dak Bungalow Chawk, Patna,
 3. The Senior Regional Manager (Retail), the HPCL, Lok Nayak Jai Prakash Bhawan, 6th Floor, Post Box No. 40, Dak Bungalow Chawk, Patna, through the Chief Regional Manager, Retail, Patna Regional Office & duly constituted Attorney, posted at its Regional Office at Patna situated at Lok Nayak Jai Prakash Bhawan, 6th Floor, Post Box No. 40, Dak Bungalow Chawk, Patna.

.... Appellants / Respondents no. 3 to 5 in the Writ Petition.

Versus

1. Sanjay Kumar son of Sri Rajendra Kumar, Resident of Main Road, Nasariganj, P.S. Nasariganj, District Rohtas, Bihar
- Respondent / Writ Petitioner 1st Set.
2. The Union of India through the Secretary, Ministry of Petroleum & Natural Gas, New Delhi,
4. The Deputy Secretary to The Govt. of India, Ministry of Petroleum & Natural Gas, New Delhi.

..... Respondents / Respondent nos. 1 & 2 in Writ Petition
/ Performa Respondents 2nd Set.

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Appearance:

For the Appellant/s : Mr. Chittaranjan Sinha, Sr. Advocate &
Mr. Rajeev Prakash, Advocate.
For the Respondent No.1: Mr. Anjani Kumar, Sr. Advocate with
Mr. Rohit Mishra, Advocate.
For the Respondents 2&3: Ms. Kanak Verma, C.G.C.

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)



Date: 10-04-2018

Challenge in the present Letters Patent Appeal is to the order dated 01.05.2017 passed by the learned Writ Court in CWJC No. 17401 of 2011 by which the Writ Application has been allowed and the impugned order dated 01.08.2011 issued by the Senior Regional Manager (Retail), H.P.C.L., Patna (respondent no. 5) has been quashed.

2. We have heard Sri Chittaranjan Sinha, learned Senior Counsel representing the appellants, Ms. Kanak Verma, learned C.G.C. for the Union of India and Sri Anjani Kumar, learned Senior Counsel appearing on behalf of the respondent no. 1.

3. Learned Senior Counsel for the appellant has raised a short issue for consideration. It is his case that the learned Writ Court has proceeded to consider the entire Writ Application on the assumption that the guidelines dated 01.04.2009 would apply in the matter of allotment of Retail Outlet Dealership for the location in question but the fact remains that the appellant had already come out with the 2010 guidelines and the petitioner-respondent no. 1 had submitted his application dated 19.07.2010 only after the appellant had already issued the Corrigendum dated 19.06.2010. It is the case of the appellant that the writ petitioner failed to follow the terms and conditions of the Advertisement as well as the Brochure applicable



since 01.04.2010 and the only ground taken by him is that he had no knowledge of issuance of the Corrigendum dated 19.06.2010 which, according to the learned Senior Counsel for the appellant, stands falsified from the action taken by the writ petitioner during the extended period.

4. The appellants submit that the last date for submission of the application form was 19.07.2010 and on the said date the writ petitioner submitted his application with a lease deed executed on 15.07.2010 and prescribed affidavits which were sworn on 17.07.2010. According to the appellant, the date, i.e., '19.07.2010' was the extended cut-off date from the Corrigendum dated 19.06.2010 but the writ petitioner had not submitted the lease deed with sub lease clause which was one of the requirements under the guidelines. The petitioner had also not submitted the consent letter of the land owner with his application form and it is only later on the petitioner submitted a rectified registered lease deed dated 11.06.2011 when the appellant had already been served with the order and observation of the Scrutiny Officer and the petitioner was called upon to submit his objection on the observation of the Scrutiny Officer.

5. While replying to the notice of the appellant Corporation, the rectified registered lease deed was submitted which was not accepted by the Corporation as no additional document could



have been accepted later on after the last date as provided in the guidelines / advertisement in accordance with Clause 9(g) which provides – “No addition / deletion / alteration will be permitted in the application form after cut-off date for submission of application.”

6. Learned Senior Counsel has placed before us the Guidelines, a copy at Annexure-3 to the Supplementary Affidavit filed on behalf of the appellant. It is his submission that in terms of Clause 9(g) of the Guidelines “no additional documents whatsoever will be accepted or considered after the cut-off date for submission of application.”

7. In the aforesaid view of the matter, learned Senior Counsel submits that the learned Writ Court has erred in appreciating the stand of the appellant and has proceeded to decide the Writ Application assuming that the allotment is to be made in terms of the 2009 Guidelines alone.

8. Opposing the Appeal Mr. Anjani Kumar, learned Senior Advocate on behalf of the writ petitioner – respondent no. 1, submits that even though it is the submission of the appellant – Corporation that for all 227 locations advertised by Advertisement dated 11.06.2010 issued for allotment of Retail Outlet Dealership in the State of Bihar the appellant – Corporation has applied only the 2010 Guidelines, the petitioner who had been provided with a copy of the



Brochure containing the 2009 Guidelines and because of that he has submitted the registered sale deed only in conformity with the 2009 Guidelines and has already been selected cannot be thrown out. Learned Senior Counsel submits that the petitioner was not aware of the Corrigendum dated 19.06.2010 and the fact that the Corrigendum was issued and brought on record only after about 6 years from the date of filing of the Writ Application. It is submitted that the Corrigendum was published only in the Patna Edition and not in the Edition which was to be distributed in Sasaram, Nasariganj or Vikramganj. It is submitted that the page at which the Corrigendum was published is not distributed in the copies of the newspapers circulated through Sasaram Edition. It is submitted that in the present situation the entire process of selection has been exhausted, now only Letter of Intent was to be issued.

9. Having heard learned Senior Counsel for both the parties and upon perusal of the records we find that the appellant – Corporation had already come out with the guidelines for selection of Retail Outlet Dealership applicable from April, 2010 which is not in dispute. It is the case of the writ petitioner – respondent no. 1 that when he purchased the documents he was made available only the Guidelines of 2009. Learned Senior Counsel for the respondent no. 1, however, does not dispute the fact that the appellant – Corporation



had published a Corrigendum by which the Advertisement dated 11.06.2010 was sought to be rectified in terms of the selection guidelines which were applicable from April 2010. It has been specifically contended on behalf of the appellant – Corporation that the stand taken by the petitioner that the 2009 Brochure was supplied to him is only an afterthought. It is the further stand of the appellant which has not been specifically denied by the respondent no. 1 that all the information was provided by the appellant-Corporation through the newspaper and on the website also. The terms and conditions of the 2010 Guidelines are not under challenge. The guidelines specifically provide for submission of a registered sale deed, if the land was offered with the consent of the lessor then the consent letter of the lessor is required to be submitted and the registered sale deed must contain a clause whereunder the lessee should have authority to sub lease the land in four of the appellant – Corporation.

10. We are of the considered opinion that the learned Writ Court has committed an error in appreciating all the materials available on the record. In view of the specific stand of the appellant – Corporation that not a single selection has been made on the basis of the 2009 Guidelines under the Advertisement in question and further that the guidelines applicable w.e.f. 01.04.2010 were very much available was in the form of not only by publishing the Corrigendum



but also by putting it on the website, we set aside the impugned judgment passed by the learned Writ Court in CWJC No. 17401 of 2011.

11. The Letters Patent Appeal is allowed and the Writ Application stands dismissed.

(Rajendra Menon, CJ)

(Rajeev Ranjan Prasad, J)

Dilip, AR

AFR/NAFR	NAFR
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