

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.574 of 2015

In

Civil Writ Jurisdiction Case No.395 of 2015

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Rahul Kumar S/o - Gopal Jee Ram R/o -Quarter No. 14, Type-4 Central Revenue Colony, Ashiana Nagar, P.s. Shastri Nagar, Patna. Presently residing at Flat No. 206, R.J. Complex, Near N.T.P.C. Phase-1, Ashiana Nagar, P.s.-Rajeev Nagar , Patna.

... .. Appellant/s

Versus

1. The Union of India
2. Secretary, Department of Petroleum and Natural Gas, Government of India, Shastri Bhawan, New Delhi-110001.
3. Indian Oil Corporation Ltd, 1st Floor, Shastri Bhawan, Exhibition Road, Patna-800001.
4. General Manager , Indian Oil corporation ltd, 5th Floor Lok Nayak Bhawan, Dakbungalow Chauraha, Patna- 80001
5. Deputy General Manager L.P.G. Indian Oil Corporation Ltd, Lok Nayak Bhawan, Dakbungalow chauraha, Patna-80001.
6. Area Manager, Indian Area Officer, Lok Nayak Bhawan Jai Prakash Bhawan 5th Floor, Dakbungalow chourah, Patna-80001.

... .. Respondent/s

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Appearance :

For the Appellant/s	:	Mr. Birendra Kumar Sinha, Sr. Advocate Mr. Rajendra Kumar Jain, Advocate
For the Respondent/s	:	Mr. S.D.Sanjay(ASG)
For IOCL	:	Mr. Anil Kumar Sinha, Mr. Amlesh Kr. Verma, Advocates

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CORAM: HONOURABLE MR. JUSTICE JYOTI SARAN

and

HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date : 27-02-2018

The appellant in the present *intra* Court



appeal under the Letters Patent of this Court has put to challenge the judgment and order of a learned Single Judge of this Court, dated 20.01.2015, passed in CWJC No. 395 of 2015, whereby the writ application filed on behalf of the appellant has been dismissed. The appellant had sought for quashing of the letter, dated 11.12.2014, issued under the signature of the Chief Area Manager, Indian Oil Corporation Limited, informing the appellant about rejection of his candidature for award of LPG distributorship in the district of Gopalganj under Scheduled Caste category, against the advertisement, dated 18.05.2012, as he was not found suitable.

2. There are certain facts, which are not at all in dispute. The appellant, against an advertisement inviting applications for dealership of the LPG for the location Gopalganj under the Scheduled caste category had applied on 28.06.2012. This is also not in dispute that the appellant was allowed to participate in the process of selection. The selection for the distributorship is governed by the Guidelines for Selection of Regular LPG Distributor as contained in the brochure, jointly issued by the Oil Companies, namely, Indian Oil Corporation Limited, Bharat



Corporation Limited and Hindustan Corporation Limited in 2011, which is effective from 01.04.2011(hereinafter referred to as the Guideline) and was brought on record in the writ proceeding itself by the appellant by way of annexure. Clause-7 of the said Guidelines prescribed eligibility criteria for individual applicants; Sub-Clause 7.1.vi thereof laid down the necessity of owning plot of land of requisite dimensions in following terms:-

“The applicant should

XX XX XX
XX XX XX

vi. **Should own** a plot of land of adequate size (within 15 km from municipal/town/village limits of the location offered in the same State) for construction of godown for storage of 8000 kg of LPG in cylinders or ready LPG cylinder storage godown as on the date of application. As per Gas Cylinder Rules 2004, the floor area of the storage shed for storing 8000 kg LPG in Cylinders should be 80 sq meters. The length of the storage shed should not be more than 1.5 times of width of storage shed. There should be clear minimum safety distance of 7 meters between storage shed and the boundary wall/fencing. The plot of land with minimum dimension of 26.15 metres by 27 metre is adequate. It should be freely accessible through all weather motorable approach road (public road or private road of the applicant connecting to the public road) and should be plain, in on contiguous plot, free from live overhead power transmission or telephone lines. Canals/Drainage/Nallahs should not be passing through the plot. The land for construction of LPG godown should



also meet the norms of various statutory bodies such as PWD/ Highway authorities/ Town and Country Planning Department etc.

In case an applicant has more than one suitable plot for construction of godown for storage of minimum 8000 kg of LPG in cylinders or ready LPG cylinder storage godown as on the date of application, the details of the same can also be provided in the application.”

3. The word ‘**own**’ with reference to Sub-Clause 7.1.

vi and 7.1.vii has been defined in the said guidelines as follows:-

“Reference vi and vii above:

‘**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).”

(Underlined for emphasis)

4. It was the case of the appellant in the writ proceeding, which is his case before this Court also that the appellant owned land of requisite description inasmuch as a



lease deed for a period of fifteen (15) years was executed by one Rajendra Manjhi jointly in favour of the appellant, his elder brother Anirudh Prasad and his sister-in-law (elder brother's wife) Snehil Soni.

5. Learned single Judge finding no illegality in the decision declaring the appellant's candidature not suitable took note of the fact that as on the date of the filing of the application by the appellant, the appellant was not owning the requisite dimensions of land within the meaning of definition '**Own**' as furnished in the Guidelines. Learned single Judge further noted that the document on which the appellant was relying claiming to be the lease deed executed jointly in favour of the appellant, his brother and his sister-in-law could not be said to be sufficient for satisfying the eligibility requirement since the three could not be said to be constituting 'Family Unit' as defined in the guidelines for selection. In view of the submissions, which have been made on behalf of the appellant, we need to take note of the definition of the 'Family Unit' as given in the guidelines, which reads thus:-

“‘Family Unit’ in case of married person/applicant shall consist of individual concerned, his/her Spouse (s) and their unmarried son(s)/daughter(s). In case of



unmarried person/applicant, 'Family Unit' shall consist of individual concerned, his/her parents and his/her unmarried brother(s) and unmarried sister(s). In case of divorcee, 'Family Unit' shall consist of individual concerned, unmarried son(s)/unmarried daughter(s) whose custody is given to him/her. In case of widow/widower, "Family Unit" shall consist of individual concerned, unmarried son(s)/unmarried daughter(s)."

6. Mr. B.K. Sinha, learned Senior counsel appearing on behalf of the appellant has vehemently argued that the elder brother and sister in law (wife of the elder brother) constitute 'Family Unit' within the meaning of 'Family Unit' as occurring in the guidelines for selection. He has further submitted that the documents of lease being registered, learned single Judge wrongly held it not to be a valid lease document for the purpose of selection of LPG distributor.

7. Mr. Anil Kumar Sinha, learned counsel appearing on behalf of Indian Oil Corporation, on the other hand, has drawn our attention to the document brought on record by way of Annexure-4 to the writ application, which the appellant had claimed to be the deed of lease executed jointly in favour of the appellant and his brother and his brother's wife (sister in law). He has submitted, referring to



the language of the said document that at the maximum it can be said to be an agreement to lease subject to fulfillment of conditions mentioned therein, viz, in case either of the three get selected for the distributorship.

8. We find force in the submission made on behalf of the Indian Oil Corporation after having perused the said lease document brought on record by way of Annexure-4 to the writ application. It is clear from the said document that one Rajendra Manjhi, the executor of the document records his promise therein to execute the lease deed in case the LPG distributorship was awarded in favour of either of the three. It is a conditional promise to execute lease deed and can by no means be treated to a lease deed.

9. We do not find any infirmity in the judgment and order under appeal, therefore, since the appellant has failed to establish his claim of eligibility.

10. This appeal in our view, would fail for the other reason also.

11. The appellant claims that so called lease deed was executed in favour of the appellant, his brother and the wife of his brother. "Family Unit" has been explicitly defined in the guidelines, which has already been quoted



above. The 'Family Unit' in terms of the said guidelines for a married applicant would consist of the individual concerned, his/her spouse(s) and their unmarried sons and daughters. In case of an unmarried applicant, the 'Family Unit' would consist of the individual concerned, his/her parents, his/her unmarried brothers and unmarried sisters. In our definite view, no relative other than mentioned in the definition of 'Family Unit' can constitute 'Family Unit' in terms of the said guidelines for selection. The appellant has, thus, rightly been held to be unsuitable for grant of distribution by the Respondents in view of the discussions as above.

12. We, therefore, do not find any reason to interfere with the impugned judgment and order under appeal.

13. We do not find any merit in this appeal, which is accordingly, dismissed.

14. There shall be no order as to costs.

(Jyoti Saran, J)

(Chakradhari Sharan Singh, J)

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