

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.9403 of 2013

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Nitu Sahu W/o Sri Saket Kumar Sahu, resident of Shivam Niwas, P.O. + P.S.-
Nasriganj, District - Rohtas

.... Petitioner

Versus

1. M/S Bharat Petroleum Corporation Ltd. through its Chairman & Managing Director, Bharat Bhawan, 4 & 6 Currimbhoy Road, Ballard Estate, P.B. No. 688, Mumbai- 400001
2. The State Coordinator, Bihar, Dealer Selection Office, 3rd Floor, Ashiana Chamber, Exhibition Road, Patna- 800001
3. Smt. Abida Khatoon, W/o Md. Irshad Ansari resident of village- Begpur, P.S.- Panchwara (Barhat), District- Banka

.... Respondents

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Appearance :

For the Petitioner : Mr. Neeraj Kumar Gupta, Advocate

For Respondent-BPCL: Mr. Siddhartha Prasad, Advocate

For Respondent No. 3 : Mr. Basant Kr. Choudhary, Sr. Advocate

Mr. Anmol Ratan, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 25-07-2018

Heard learned counsel for the petitioner, learned
counsel for the respondent- Bharat Petroleum Corporation Limited as
well as learned counsel for respondent no. 3.

2. The present writ petition has been filed for setting
aside the Statement of Performance (Result) dated 18.06.2012
notified in connection with the interview held on 18.06.2012 for the
selection of Retail Outlet dealership of BPCL proposed to be opened
at location at Dehri-On-Sone, District Rohtas under Open Women
(OPW) category; for quashing the decision as communicated vide



letter reference no. P/COMPT/DEHRI-ON-SONE dated 12.09.2012 and further, the decision as communicated in letter reference No. P.COMPT.DEHRI-ON-SONE dated 10.10.2012 issued under signature of respondent no. 2; and for connected reliefs.

3. The short facts of the case, according to the petitioner, are that pursuant to an advertisement dated 11.12.2011, she applied for the award of retail outlet. In the statement of performance, the petitioner was awarded 84.00 marks whereas the private respondent no. 3 was awarded 87.17 marks. In the process, the petitioner was given 10.38 marks out of 12 marks for liquid finance, 0 marks out of 4 marks for fixed and movable assets, and 2.94 marks out of 4 marks for income, all under the head "Capability to arrange finance". Being aggrieved by the marks so awarded, the petitioner filed a complaint dated 09.07.2012 (Annexure-4) before the State Co-ordinator, BPCL, (respondent no. 2) under the grievance/complaint redressal system. A doubt/suspicion was also raised with regard to the eligibility of the respondent no. 3 with regard to the documents of land but it was stated that an elaborate complaint could only be filed in that behalf after perusing the documents pertaining to the land offered by the respondent no. 3. The petitioner agitated the award of 0 marks for fixed and movable assets despite having fulfilled the requirement of submitting a valuation certificate issued by the Government



Approved Valuer. So also she objected to grant of only 10.38 marks for liquid finance as she had shown sufficient liquid cash of Rs. 14,53,000/- as against Rs. 14,40,000/- on a base of Rs. 30,00,000/- indicated in the relevant advertisement. The Respondent No. 2 found the petitioner's complaint to be false and baseless and disposed of the same by the impugned letter 12.09.2012 (Annexure-6).

4. The petitioner thereafter again represented by letter 01.10.2012 (Annexure-7) reiterating the earlier grievances and in addition, also submitted details of the land of the respondent no. 3 demonstrating that her candidature was liable to be rejected as her lease deed did not satisfy the condition of 30 years of lease period on the date of application. Such representation of the petitioner also did not find favour with the respondent no. 2 and the same was disposed of by the impugned letter dated 10.10.2012 (Annexure-8).

5. Learned counsel for the petitioner submits that the action of the respondents in rejecting the petitioner's claims is wholly arbitrary and the impugned letters dated 12.09.2012 and 10.10.2012 are unsustainable. He refers to Clause 19 of the Brochure which lays down the procedure to be followed by the respondents under the Grievance/Complaint Redressal system. It is pointed out that on receipt of a complaint, a letter is required to be sent by the respondent-Corporation to the complainant through registered post



calling for details of allegation for substantiating the same with supporting documents within thirty days. It is stated that no such opportunity was granted to the petitioner before disposing of her complaint.

6. Learned counsel for the respondent-Corporation appears and relies on the counter affidavit to oppose the writ petition. It is submitted that the statement of performance and the impugned orders do not suffer from any infirmity. From the valuation certificate submitted by the petitioner, it transpired that Er. Dilip Kumar Sinha had not described himself as a Government Approved Valuer and hence, 0 marks was awarded to the petitioner for fixed and movable assets. It is further submitted that the petitioner has erroneously sought to contend that the liquid finance was required to be computed on the basis of Rs. 30,00,000/- in place of correct Rs. 35,00,000/- and as such the petitioner has appropriately been awarded only 10.38 marks in this respect.

7. Learned counsel for the private respondent no. 3 appears and has been heard.

8. Having heard learned counsel for the parties and on careful consideration of the materials available on record, this Court finds merit in the writ petition. Without entering into the details of the claims of the petitioner on merits, this Court finds that the



procedures laid down in Clause 19 of the Brochure which the respondent-Corporation was required to follow in matters of Grievance/Complaint Redressal have not meticulously been followed. The respondents have not been able to controvert the stand of the petitioner that no letter by registered post was sent to her requiring the submission of details of allegations in order to substantiate the same along with supporting documents. Failure to do so on the part of the respondent-Corporation amounts to non-grant of opportunity of hearing on the complaint before rejecting the same. The requirement of issuance of such letter under Clause 19 of the Brochure must be viewed as a mandatory requirement which has clearly not been followed in the instant case.

9. In such circumstances, it is difficult to uphold the impugned orders dated 12.09.2012 and 10.10.2012. The same are accordingly quashed, as also the statement of performance, insofar as it relates to the marks awarded to the petitioner and the respondent no. 3. The matter is remanded to the State Coordinator, BPCL (respondent no. 2) to re-consider the complaint as well as the representation of the petitioner afresh and dispose of the same after grant of a reasonable opportunity of hearing to the petitioner as well as respondent no. 3, in accordance with law. The marks shall be awarded to the petitioner and respondent no. 3 in line with the



decision of the respondent no. 2 upon disposal of the petitioner's complaint and representation as aforesaid.

10. The writ petition stands allowed as above.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	28.07.2018
Transmission Date	N.A.

