

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.14192 of 2009

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Maheshwar Prasad Chaudhary S/O Late Mishri Lal Chaudhary, residnet of Vill-Mithepur, P.O-Garkha, P.S-Garkha, Distt- Saran at Chapra

.... Petitioner

Versus

1. Indian Oil Corporation Ltd. through the Chief General Manager, Head Office At G-9, Ali Javar Jung Marg, Bardra (East), Mumbai, 400051
2. The Chief General Manager, The Indian Oil Corporation, Head Office At G-9, Ali Javar Jung, Marg, Bandra (East), Mumbai-400051
3. The General Manager, The Bihar State Office, Indian Oil Corporation Ltd. 5th Floor, Lok Nayak Jai Prakash Bhawan, Dak Bungalow Chowk, Patna
4. The Senior Area Manager Marketing Division, Indian Oil Corporation Ltd., Eastern Region, Indane Area Office, 1st Floor, Shahi Bhawan, Exhibition Road, Patna

.... Respondents

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Appearance :

For the Petitioner : Mr. S.B.K. Mangalam, Advocate.

For the Respondents : Mr. Anil Kumar Jha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 10-05-2018

I.A. No. 8397 of 2009

This interlocutory application has been filed for amendment in the writ petition by adding the following prayer -

“(A) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the list of empanelled candidates for Indian Distributorship at Garkha, district- Saran in the State of Bihar under open category in which the names of the respondent nos. 5, 6 and 7 has been mentioned as the first, second and third candidate respectively for the said distributorship in order of merit (ANNEXURE-“7”).”

2. Having regard to the nature of the prayer, I.A. No. 8397 of 2009 is allowed and the petitioner is permitted to make appropriate amendments in the writ petition in the course of the day.



C.W.J.C. No. 14192 of 2009

3. The main writ petition has been filed for the following reliefs –

“(I) For issuance of an appropriate writ in the nature of CERTIORARI for quashing the letter dated 09.10.2009 issued under the signature of the Respondent No. 4, whereby and whereunder the Respondent no. 4 has been pleased to inform the petitioner that his candidature has since not been found to be eligible for award of L.P.G. Distributorship at Garkha as relevant clauses of affidavit in ANNEXURE-A submitted by the petitioner has not been declared.

(II) For issuance of an appropriate writ in the nature of MANDAMUS, commanding and directing the Respondent Authorities to accept the application form of the petitioner had made all relevant declaration at ANNEXURE-A and allow the petitioner to appear for interview scheduled on 2nd November, 2009 and to consider the eligibility of the petitioner for award of subject distributorship along with others.

(III) For issuance of any other appropriate writ/writs, order/orders, direction/directions for which the writ petitioner shall be found entitled under the facts and circumstances of the case.”

4. Learned counsel for the petitioner raises a short submission to assail the impugned order dated 09.10.2009 (Annexure-4) by which his candidature for the L.P.G. distributorship has been found ineligible, namely that the relevant clauses of the affidavit in Annexure-A to his application had not been declared. It is submitted



that such order is not only arbitrary but is also non-speaking one as it does not assign detailed reasons and is hence in violation of natural justice.

5. Learned counsel for the respondent Indian Oil Corporation Ltd. (hereinafter referred to "IOC") opposes the writ petition on several grounds. He submits that the reason for holding the petitioner's candidature as ineligible has duly been stated in the letter dated 09.10.2009 as evident from a bare perusal thereof. He further invites reference to the counter affidavit according to which, *inter alia*, clauses nos. 4 & 5 were struck off in the affidavit filed along with the petitioner's application in original. The declarations contained in these clauses were of a mandatory nature and required to be given in terms of the NIT, but had been struck off, and hence had not been furnished by the petitioner.

6. That apart, it is stated by the Corporation that the petitioner had thereafter filed a representation along with photocopies of his application and affidavit attached in Annexure-A. This was then considered by a Three Member (L1) Committee, which scrutinized the original application form and compared the same with the photocopy supplied with the representation filed by the petitioner. The original application as submitted was shown to the petitioner on 12.10.2009. The Committee in its report dated 22.10.2009 stated that item nos. 4 & 5 along with some other portions of the affidavit had been crossed out in blue ink in the original application, whereas in the photocopy



submitted with the representation attached as Annexure-A, the said item nos. 4 & 5 of the affidavit had not been struck off. The Committee took a photocopy of the original affidavit and was able to scan, edit and produce a copy similar to the one filed with the representation. No merit was thus found in the claim of the petitioner.

7. Learned counsel for the respondent-IOC also refers to its supplementary counter affidavit, *inter alia*, stating that conditional LOI to the 1st empanelled candidate, Shri Ravindra Kumar Pandey had been issued by letter dated 27.04.2011 and the distributorship had been commissioned. Even though a copy of the supplementary counter affidavit was served on the petitioner as far back as on 02.03.2015, no steps have been taken for impleading the said Shri Ravindra Kumar Pandey as party respondent, even though he has acquired at least a conditional right in the distributorship which fact is in the knowledge of the petitioner and he deserved to be heard in this matter.

8. Having heard the parties and on a consideration of materials on record, this Court finds the writ petition to be devoid of merit. The impugned letter dated 09.10.2009 briefly states the reason for holding the petitioner's candidature as ineligible, namely that the relevant clauses of affidavit in Annexure-A had not been declared. It therefore cannot be said to be a non-speaking order though the reason stated may be brief. The petitioner, pursuant to such rejection of his candidature, represented before the concerned authority which representation was examined by a Three Member Committee but no



merit was found in the petitioner’s claim. On the other hand, the Committee found as a fact that in the original affidavit submitted with the petitioner’s application, clauses 4 & 5 had been struck off whereas these clauses were shown as not struck off in the photocopy submitted along with the representation. In the face of these findings of fact by the Committee with their obvious implications, no relief can be granted to the petitioner by this Court in its writ jurisdiction.

9. The writ petition accordingly stands dismissed.

(Vikash Jain, J)

Md. Ibrarul/BT

AFR/NAFR	NAFR
CAV DATE	N.A.
Uploading Date	14.05.2018
Transmission Date	N.A.

