

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11713 of 2013

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Md. Quraish, Son Of Late Gulam Mustafa, resident of Village- Rahua, P.S.-
Rosera, District- Samastipur

.... Petitioner

Versus

1. M/S Hindustan Petroleum Corporation Limited, through its Sr. Regional Manager, Retail Regional Office - C/O- H.P.C.L. Barauni Terminal, N.H.- 31, At & P.O.- Papraur, District- Begusarai
2. Senior Regional Manager, Retail Hindustan Petroleum Corporation Limited, 6th Floor, Lok Nayak Jai Prakash Bhawan, Dak Bangla Chauraha, Patna
3. Senior Regional Manager, Retail Hindustan Petroleum Corporation Limited, Barauni Terminal, at Papraur, District- Begusarai
4. Deputy General Manager, NCZ, Begusarai, Retail Regional Office, C/O H.P.C.L., Barauni Terminal, N.H. - 31, At & P.O. - Papraur, District- Begusarai

.... Respondents

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Appearance :

For the Petitioner : Mr. T.N. Matin, Sr. Advocate

Mr. Manish Kumar No. 13,

Mr. Rohit Kumar, Advocates

For Respondent-HPCL: Mr. Neeraj Kumar Gupta, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 14-08-2018

As prayed, learned counsel for the petitioner is permitted to add the Deputy General Manager, NCZ, Begusarai, Retail Regional Office, C/O H.P.C.L., Barauni Terminal, N.H. - 31, At & P.O. - Papraur, District- Begusarai as respondent no. 4 in the array of parties in course of the day.

2. The present writ petition has been filed for the following reliefs-

“(i) To quash the Ref: BRO/BCT/DSC dated 06/04/2013 issued under the signature of Sr. Regional Manager,



whereby and where under merit panel dated 16/10/2012 was cancelled in the said merit list petitioner was put up at first serial on the basis of performance of candidates interviewed on 16/10/2012 for Retail Outlets Dealership. The aforesaid impugned order is bad in law as well as facts because there was no misrepresentation and suppression of fact on the part of the petitioner and said provisional merit panel was rightly prepared by the competent authority itself. As such this Hon'ble Court may be pleased to quash the aforesaid impugned order.

(ii) To direct the respondents to allot the petitioner HPCL Outlet (Petrol Pump) Dealership for which petitioner possess requisite qualifications prescribed by the Hindustan Petroleum Corporation Ltd. restoring the provisional merit list dated 16/10/2012, which was prepared by the competent authority and petitioner was placed at first serial.

(iii) Any other writ/writs for granting any other relief/reliefs for which the petitioner is found entitled to in the facts and circumstances of the present case."

3. Mr. T.N. Matin, learned senior counsel appearing on behalf of the petitioner, submits that the speaking order dated 24.03.2013 enclosed with the impugned order dated 06.04.2013 is wholly arbitrary and is liable to be quashed. As regards the first objection of the respondents with regard to furnishing wrong affidavit by the petitioner in not stating the fact that charges had been framed



against him in a criminal case, it is submitted that apart from the fact that he was subsequently acquitted in the concerned case, the criminal offence did not involve moral turpitude/economic offence and hence, no disclosure of the fact was at all required. As regards the second issue with reference to the land in Khesra Nos. 2034 and 2029 offered by the petitioner being not contiguous, it is submitted that he was never confronted in this regard in order to enable him to clarify the factual position. It is submitted that the impugned order has travelled beyond the show cause notice in rejecting the petitioner's candidature on this ground as well.

4. Learned counsel for the respondent Corporation opposes the writ petition, inviting reference to the Guidelines for Selection of Retail Outlet Dealers. Clause 5(a) thereof provides for disqualification of candidates, *inter alia*, who were convicted or against whom charges have been framed by a Court of law for any criminal offence involving moral turpitude/economic offence (other than freedom struggle). The petitioner in his show cause reply dated 12.03.2013 has himself admitted that the criminal offence alleged against him under section 420 IPC related to non-disbursement of cheque of *Indira Awas* and defalcation of the amount, leading to framing of charges on 02.09.2009 against the petitioner much prior to filing of the application for award of the retail outlet. As regards the



objection with respect to the land, it is submitted that the two plots of land offered by the petitioner vide Khesra Nos. 2034 and 2029 were found to be not contiguous. The petitioner had sought to show the entire offered land in one Khesra and had thus misled the committee.

5. Learned counsel for the respondents on instructions has also made a statement at the Bar that the retail outlet has not yet been awarded to any third party.

6. Having heard learned counsel for the parties and on careful consideration of materials available on record, I find substance in the submissions of the petitioner. Whether or not the petitioner had filed a wrong affidavit and suppressed the fact of charges having been framed in a criminal offence alleged against him, will depend on whether the offence in question involved moral turpitude/economic offence (other than freedom struggle). The petitioner had raised this specific plea in paragraph 6 of his show cause reply dated 12.03.2013 but this aspect of the matter has not been decided by the Corporation. As regards incorrect particulars said to have been furnished with regard to the land vide *Khesra* Nos. 2034 and 2029, it prima facie appears from the impugned order that dimension of Khesra No. 2034 itself was sufficient to satisfy the minimum requirement of 40 mtr. X 40 mtr., though it is stated that the petitioner misled the committee by showing the entire offered land in one *Khesra*. The petitioner's stand



that no show cause notice was issued in this regard, has also not been controverted by the respondents.

7. In the above circumstances, I am of the view that the ends of justice will be served if the speaking order dated 24.03.2013 enclosed with the impugned letter dated 06.04.2013 (Annexure-1) is hereby quashed and the matter remanded to the competent authority of the respondent Corporation to pass orders afresh in accordance with law after grant of opportunity of hearing to the petitioner.

8. The writ petition accordingly stands disposed of.

(Vikash Jain, J)

B.T/Chandran

AFR/NAFR	NAFR
CAV DATE	N.A.
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