

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.13754 of 2018

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Vijay Sharma, Son of Sri Ramadhin Mistri, Resident of Village- Lakhnu Bigha,
Post- Ugawan, P.S.- Asthawan, District- Nalanda, Bihar- 811103.

.... Petitioner/s

Versus

1. The State of Bihar through the Chief Secretary, Government of Bihar, Patna.
2. The District Magistrate-cum-Collector, Nalanda at Biharsharif.
3. The Deputy Collector Land Reforms, Nalanda at Biharsharif.
4. The Circle Officer, Asthawan, Nalanda.
5. The Anchal Amin, Asthawan, Nalanda.
6. Bharat Petroleum Corporation Limited represented through its Territory
Manager (LPG), Patna.
7. The Deputy Manager (LPG), Bharat Petroleum Corporation Limited,
Biharsharif.
8. The Assistant Manager, Sales (LPG), Bharat Petroleum Corporation Limited,
Biharsharif (PVC Committee).

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Niranjan Kumar, Adv.

Ms. Smita Prasad, Adv.

For the B.P.C.L. : Mr. Siddhartha Prasad, Adv.

Mr. Om Prakash Kumar, Adv.

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL

CAV JUDGMENT

Date: 27-07-2018

Heard Mr. Niranjan Kumar, learned counsel for the
petitioner, Mr. Siddhartha Prasad, learned counsel for the Bharat
Petroleum Corporation Ltd., respondent nos. 6, 7 and 8 and learned
counsel appearing on behalf of the State.



Petitioner seeks quashing of letter dated 25.06.2018 as contained in Annexure-13 issued by Memo No. L.P.G.-ER. PATN. 6 UGANWAN whereby and whereunder the candidature of the petitioner as L.P.G. Gramin Distributorship at Panchayat-Uganwan, Block-Asthawan, District-Nalanda has been rejected and the amount of F.V.C. fee of Rs. 30,000/- deposited with the corporation has been forfeited on the ground that the petitioner did not provide alternate land/shop for show-room at Ugawan location.

An interlocutory application being I.A. No. 5281 of 2018 has been filed for setting aside the press communique dated 17.07.2018 advertised in daily newspaper 'Dainik Jagaran' for redraw of lots to be held on 21.07.2018.

I.A. No. 5281 of 2018 is allowed to be treated as part of the writ application.

The facts of the case is that the petitioner as an eligible candidate applied under O.B.C. category for issuance of licence for opening of L.P.G. Rural Distributorship, which was advertised by the respondent, Bharat Petroleum Corporation Ltd. on 18.06.2017 in daily Hindi Newspaper (Dainik Jagaran). The location was Gram Panchayat Uganwan, Block-Asthawan, District-Nalanda as per advertisement item no. 893 Annexure-1 to the writ application. Petitioner submitted the application with the requisite documents



on 24.11.2017 after being duly selected on 17.11.2017. The respondent, Bharat Petroleum Corporation Ltd. vide letter dated 06.01.2018 during field verification of the location, found that the offered land was at “Akbarpur Uganwan @ Lakhnu Bigha, Thana No. 257, P.S. Asthawan, Khata No. 24, Khesra No. 83, area 36 decimals and it was found that the offered land was not at the advertised location i.e. Uganwan, P.S. Asthawan, District-Nalanda. Hence, seven days time was given for furnishing alternate land at the advertised location i.e. Uganwan, Block-Asthawan, District-Nalanda. Petitioner replied vide Annexure-4 wherein it had been specifically submitted that location Mauza- Uganwan and Akbarpur Uganwan @ Lakhnu Bigha are adjacent to each other. Again vide letter dated 16.01.2018, the petitioner was asked to provide alternate land. Thereafter a clarification was sought from the Circle Officer, Asthawan, District-Nalanda by the respondent, Bharat Petroleum Corporation Ltd whether the land offered by the petitioner comes under Mauza-Uganwan or not. The Circle Officer, Asthawan vide letter no. 161 dated 12.02.2018 (Annexure-7) replied that Uganwan comes under Thana No. 256 and Akbarpur Uganwan @ Lakhnu Bigha comes under Thana No. 257 and are two revenue villages. Again a clarification was sought from the Circle Officer, Asthawan and the Circle Officer reiterated



the information given vide letter dated 12.02.2018. The petitioner was asked to furnish an alternate land vide reminders dated 20.05.2018 and 12.06.2018 otherwise the L.P.G. Distributorship would be cancelled and F.V.C. fee deposited would be forfeited. Petitioner again filed a reply vide Annexure-12 dated 22.06.2018 that both the location of land Mauza-Uganwan and Akbarpur Uganwan @ Lakhnu Bigha are adjacent to each other. Eventually vide Annexure-13 dated 25.06.2018, the candidature of the petitioner was rejected and F.V.C. fee of Rs. 30,000/- stood forfeited as per clause 26 of Brochure on Unified Guidelines for selection of L.P.G. Distributors.

Learned counsel for the petitioner submits that the land location submitted by the petitioner is on the same location of Uganwan in Asthawan Block as held by the Circle Officer and letter dated 06.01.2018 was handed to him on 13.01.2018 and that no such request dated 16.01.2018 has been made by the petitioner for arranging an alternate land at Uganwan, Nalanda as stated by him in para-9-10 of the writ application. As such, the cancellation of L.P.G. Distributorship is in violation of Articles 14, 16 and 21 of the Constitution of India as well as violation of principles of natural justice and the action of the respondent, Bharat Petroleum Corporation Ltd. is unwarranted, illegal, arbitrary and not



sustainable in the eye of law.

Learned counsel for the respondent, Bharat Petroleum Corporation Ltd. submits that the petitioner has not come before this Court with clean hands as the letter dated 06.01.2018 was received by him personally as is evident from his endorsement as contained in Annexure-C to the counter affidavit and vide letter dated 16.01.2018 the petitioner had asked for ten days time to provide alternate land which is Annexure-D which is disputed by the petitioner. He submits that letter dated 16.01.2018 which was a reminder to provide an alternate land was also received by the petitioner personally as he has made an endorsement which is Annexure-E. Since in spite of repeated reminders, the petitioner failed to provide an alternate land his candidature has been rightly rejected and F.V.C. fee of Rs. 30,000/- forfeited. He submits that the location which was filled up in the application (Annexure-A to the counter affidavit) was with regard to village Lakhnu Bigha, P.O. Uganwan, P.S. Asthawan, District-Nalanda and not at Uganwan which was the location prescribed under advertisement. The Circle Officer has also confirmed by letter dated 12.02.2018 that the land offered by the petitioner has a separate police station and is a different revenue village. Petitioner also in his reply has stated that the land offered is adjacent to the location advertised.



Counsel for the petitioner disputes the letter dated 16.01.2018 as contained in Annexure-D to the counter affidavit of having written for providing an alternate land. Such disputed questions cannot be gone into by the Writ Court.

The land offered by the petitioner for L.P.G. Distributorship was not a land at the location as specified in the advertisement. In spite of repeated reminders the petitioner did not provide an alternative land. The Circle Officer also during verification found that the plot offered by the petitioner and the location where the L.P.G. Distributorship was to be established were two different revenue villages and there was two police stations.

Writ application of the petitioner is devoid of merit. It is accordingly dismissed.

(Nilu Agrawal, J)

Devendra/-

AFR/NAFR	AFR
CAV DATE	NA
Uploading Date	27.07.2018
Transmission Date	NA

