

CWP No.1304 of 2014 (O&M)

[ 1 ]

\*\*\*\*\*

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH**

**CWP No.1304 of 2014 (O&M)**

**Date of decision:17.04.2018**

Rajiv Sihag

...Petitioner

Versus

Union of India and others

...Respondents

**Coram: Hon'ble Mr. Justice Rakesh Kumar Jain**

Present: Mr. Sanjiv Gupta, Advocate,  
for the petitioner.

Mr. Ashish Kapoor, Advocate,  
for respondents No.2 and 3.

\*\*\*\*

**Rakesh Kumar Jain, J.**

The petitioner has prayed for the issuance of a writ in the nature of *certiorari* for quashing the letter dated 02.01.2014 by which his empanelment has been cancelled on furnishing wrong information.

In brief, the Indian Oil Corporation Limited (hereinafter referred to as the "Corporation") issued an advertisement on 30.06.2012 for empanelment of the KSK Retail Outlet (Petrol Pump) Dealership for the location of Neemla on Rampuria Road, District Sirsa under open category. There were two applicants in the fray including the petitioner who had applied for the dealership of the aforesaid location. The interview was held on 13.10.2012, in which Bhoop Singh (another candidate) was declared as first empanelled candidate with 87.06 marks and the petitioner was declared as the second empanelled candidate with 87.03 marks. However, during field investigation of the first empanelled candidate, his experience certificate was found vague and as a result thereof, his empanelment was cancelled. Thereafter, field investigation of the petitioner was carried out, during which it was found that he had furnished wrong information regarding his financial

capability. The petitioner had appended photocopy of the passbook of bank A/c No.30359544938 of the State Bank of India, Chautala with the statement upto 26.07.2012, showing total balance of ₹18,04,913/- but had filed the application with affidavit dated 28.07.2012, therefore, the date of application was considered as 28.07.2012 but on that date, the amount found available in the said account was only ₹12,107/-. The Corporation, therefore, vide the impugned order dated 02.01.2014, cancelled the empanelment of the petitioner on the ground of furnishing false information while relying upon Clause 19.2 of the Brochure, which reads as under:-

**“19.2 Furnishing of False Information**

If any information furnished by the applicant is found to be false at any point of time before or after appointment as a dealer the allotment shall be cancelled forthwith and dealership terminated in case commissioned.”

Learned counsel for the petitioner has submitted that the Corporation has violated the principle of natural justice as it had not given an opportunity of hearing to the petitioner before passing the impugned order.

In this regard, the petitioner has relied upon an order of this Court passed in the case of **Rajinder Kumar vs. Union of India and others**, LPA No.950 of 2016, decided on 16.01.2017. It is, however not denied that the petitioner has given bank A/c No.30359544938 in column no.13 of the application pertaining to source of funds in which he has mentioned the amount available with him as of ₹12,50,000/-. There is a note in column no.13 that *“amount given in FDs, Bank Accounts/and other financial documents as proof for financial capability should be valid as on date of application”*. However, in the said account of the petitioner, the statement of which is also attached with the application form, there were ₹18,04,913/- as on 26.07.2012

but on the date when the application was filed, i.e. 28.07.2012, the amount in the said account was only ₹12,107/-, therefore, the amount on the date of application has to be considered as ₹12,107/-, which was at a great variance with the amount mentioned by the petitioner in the application.

It is also argued by the counsel for the petitioner that the petitioner has more than 100 acres of land and has, thus, sufficient funds.

In reply, counsel for the respondents has submitted that the petitioner has been guilty of *suppressio veri suggestio falsi* as the contents of his application are not true and are contrary to the admitted documentary evidence. In this regard, not only he has pressed Clause 19.2 of the brochure but also the declaration made by the petitioner in his application form itself, which reads as under:-

“I, Rajiv Sihag son of Shri Vinod Kumar Sihag, resident of VPO Chautala, Tehsil Dabwali, District Sirsa (Haryana) hereby certify that the information given above is true to the best of my knowledge and belief. Any wrong information/suppression of facts will disqualify me from being considered for the dealership.”

It is further submitted that the Corporation has nothing to do with the extent of richness of the petitioner who is allegedly the owner of 100 acres of land, as stated, but the Corporation is only concerned with the compliance of the provisions of the brochure as in the matter of allotment of dealership, there is a cut-throat competition between the applicants and the allotment is made only when the applicant fulfills all the required parameters and is not guilty of suppression of any material fact. In support of his submission, he has relied upon a decision of this Court rendered in the case of **Sh. Pardeep Singh vs. Indian Oil Corporation Ltd. and another**, CWP No.12577 of 2012, decided on 15.02.2018, in which the similar controversy was involved and another

judgment rendered in the case of **Smt. Rinku Jindal and another vs. Indian Oil Corporation Ltd. and another**, CWP No.1885 of 2014, decided on 18.09.2017.

As regards the question of opportunity of hearing is concerned, the judgment relied upon by the petitioner rendered in **Rajinder Kumar's case (supra)** is on different facts because in that case, LOI was issued, which is not the situation in the present case and in that case opportunity was not given before the revised marks sheet was sent to the petitioner as according to him (in the referred case) the marks of personality test of the petitioner were changed without appearance of the petitioner before the interview board.

Insofar as the present case is concerned, the facts themselves speak volumes about the ineligibility of the petitioner who has failed to maintain the amount mentioned in the application on the date when the application was filed for which no opportunity of hearing is required as it is borne out from the record itself and is not denied. Therefore, in the given facts and circumstances, I am of the considered opinion that the Corporation has not committed any error in passing the impugned order, cancelling the empanelment of the petitioner for providing wrong information in the application form.

Consequently, the present petition is hereby dismissed, though without any order as to costs.

**April 17, 2018**  
**vinod\***

**(Rakesh Kumar Jain)**  
**Judge**

|                             |   |        |
|-----------------------------|---|--------|
| Whether speaking / reasoned | : | Yes/No |
| Whether reportable          | : | Yes/No |