

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

CWP No. 1225 of 2017

Date of Decision: 18.04.2018.

EKTA RANI

..... Petitioner

V/s.

BHARAT PETROLEUM CORPORATION LTD. AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.

Present: Mr. Ankush Singla, Advocate
for the petitioner.

Mr. Raman Sharma, Advocate,
for the respondents.

RAKESH KUMAR JAIN, J. (Oral)

This petition is filed for seeking a writ in the nature of Certiorari for quashing the order dated 09.12.2016, which the respondents i.e. Bharat Petroleum Corporation Ltd. (hereinafter referred to as "Corporation") has rejected the application of the petitioner during the Field Verification Credentials (FVC) on the ground that the land offered by the petitioner for showroom do not meet the criteria because he has furnished a registered lease deed dated 21.11.2013 of more than 15 years from the lessor who is a co-sharer in the said land and has not furnished the notarized affidavits of the co-sharers in terms of Appendix-4 of the Brochure on Guidelines For Selection of Regular LPG Distributors.

In short, the Corporation had issued an advertisement dated 26.10.2013, inviting applications for allotting LPG Distributorship at City Rajpura-1. The applications were to be filed on or before 25.11.2013. The petitioner, in terms of the said advertisement, had applied and was found

eligible in all respects. Her name was put in the draw of lots in which she became successful and thereafter, she was called upon to deposit the requisite amount in terms of the provisions of the Brochure for the purpose of Field Verification Credential (FVC). The petitioner had deposited the requisite amount but during the FVC, the Corporation had found that the land offered by the petitioner for the purpose of showroom was not meeting the criteria because the lease deed was given by a person who was not the exclusive owner of the said land but was a co-sharer. However, opportunity was provided to the petitioner on 23.07.2016 to furnish the notarized affidavits in terms of Appendix-4 before a particular date but said opportunity was not availed by the petitioner for the reasons best known to her. Ultimately, vide order dated 09.12.2016, the Corporation took a decision to reject the claim of the petitioner.

Learned counsel for the petitioner has vehemently argued that in the advertisement as well as in the application form, respondents have provided the criteria for the purpose of providing the lease deed for the land of showroom. It is submitted that the petitioner is a sole lessee for more than 15 years of the land which has been offered for the showroom and therefore, she fits in the criteria prescribed in the advertisement as well as in the application form.

In reply, learned counsel for the respondents has submitted that the allotment of the regular LPG Distributorship is strictly governed by the Brochure in which Clause 6 deals with the eligibility criteria for the individual applicants. Clauses 6.1 (viii) and (viii) are reproduced as under: -

“(vii)” *Should own as on the last date for submission of application as specified in the advertisement or corrigendum (if any) :*

a plot of land of minimum dimensions 25 M x 30 M (within 15 km from municipal/town/village limits of the location offered in the same State) for construction of LPG Godown for storage of 8000 Kg of LPG in cylinders. The plot of land for construction of godown not meeting the minimum dimensions of 25 M x 30 M will not be considered.

Or

a ready LPG cylinder storage godown (within 15 km from municipal/town/village limits of the location offered in the same State) of 8000 Kg capacity.

In case there are any state specific requirements/norms applicable for construction of the LPG Godown, then the same will be applicable for the respective Regular Distributorship locations and revised minimum dimensions of plot of land will be required as specified in the Advertisement of that respective State.

The plot of land or ready LPG cylinder storage godown should be freely accessible through all weather motorable approach road (public road or private road connecting to the public road). In case of private road connecting to the public road, the same should belong to the applicant/member of Family Unit (as per the multiple dealership/distributorship norm of eligibility criteria) as per the ownership criteria defined below. In case of ownership/coownership by family member(s) in respect of such private road, consent letter from respective family member(s) will be required.

The land should also be plain, in one contiguous plot, free from live overhead power transmission or telephone lines. Canals/Drainage/Nallahs should not be passing through the plot. The land for construction of LPG godown should also meet the norms of various statutory bodies such as PWD/Highway authorities/ Town and Country Planning Department etc.

In case an applicant has more than one suitable plot for construction of godown for storage of minimum 8000 Kg of LPG in cylinders or ready LPG cylinder storage godown as on

the last date for submission of application as specified in the advertisement or corrigendum (if any), the details of the same can also be provided in the application.

(viii) *Own a suitable shop of minimum size 3 metres by 4.5 metre in dimension or a plot of land for construction of showroom of minimum size 3 metres by 4.5 metre as on the last date for submission of application as specified in the advertisement or corrigendum (if any) at the advertised location or locality mentioned in the advertisement. It should be easily accessible to general public through a suitable approach road.*

In case an applicant has more than one shop of minimum size 3 metre by 4.5 metre in dimension or a plot of land for construction of showroom of minimum size 3 metre by 4.5 metre as on the last date for submission of application as specified in the advertisement or corrigendum (if any) at the advertised location or locality as specified in the advertisement, the details of the same can also be provided in the application.

Reference vii & viii above:

‘Own’ means having ownership title of the property or registered lease agreement for minimum 15 yrs in the name of applicant / family member (as defined in multiple distributorship norm of eligibility criteria) as on the last date for submission of application as specified in the advertisement or corrigendum (if any). In case of ownership/co-ownership by family member(s) as given above, consent in the form of a Notarized Affidavit from the family member(s) will be required.

In case the land is jointly owned by the applicant / member of ‘Family Unit’ (as defined in multiple dealership / distributorship norm) with any other person(s) and the share of the land in the name of applicant / member of the ‘Family Unit’ meets the requirement of land including the dimensions required, then that land for godown/showroom will also qualify for eligibility as own land subject to submission of ‘No

Objection Certificate’ in the form of an Notarized Affidavit from other owner(s).”

Learned counsel for the respondents has submitted that the word ‘own’ has been defined to mean ownership title of the property or registered lease deed agreement for minimum 15 years in the name of the applicant. It has been specifically mentioned therein that in case there is a registered lease deed, then the applicant should also furnish ‘No Objection Certificate’ (NOC) from the other co-owners like in the case of ownership title. Since, it is an admitted fact that the petitioner has obtained the land for the purpose of offering for showroom from a person who is not the exclusive owner and is a co-sharer to the extent of 100/1050 share, therefore the petitioner was required to submit the notarized affidavits in terms of Appendix-4 for which an opportunity was also given but the same was not availed by the petitioner perhaps for the reason that the other co-sharers were not inclined to give the land in question to the petitioner for the purpose of offering for a showroom.

There is a logic behind this objection being raised by the Corporation that once the distributorship is given to a person who has offered the land for godown or showroom which is not exclusively owned by him or if it is offered with the co-sharers then the co-sharers can be bound down on the basis of the affidavits filed by them in regard to their consent for offering their land so that tomorrow there may not be any problem in regard to title of the land and the work of distribution of LPG services may not be hampered. Keeping in view this aspect of the matter, the condition was specifically provided in regard to the meaning of word ‘own’ in the Brochure so that the person who is offering the land on the basis of ownership title and is not the owner of the entire land but is a co-sharer should give notarized affidavits in

terms of Appendix-4 and if the land is being offered on the basis of registered lease deed and the lessor is not the exclusive owner then the other owners should also furnish the same affidavits so that the Corporation may be satisfied that at least for 15 years there would be no difficulty.

Thus, keeping in view the aforesaid facts and circumstances, I do not find any reason to interfere in this petition and the same is hereby dismissed though without any order as to costs.

April 18, 2018

Ess Kay

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking / reasoned :	✓ Yes / No
Whether Reportable :	Yes / No