

IN THE HIGH COURT OF PUNJAB AND HARYANA AT  
CHANDIGARH

CWP No. 3702 of 2016  
Date of Decision: 12.03.2018

*SHAKIR MOHAMMED @ SAKIR MOHD.* .....Petitioner  
V/S.  
*BHARAT PETROLEUM CORPORATION LTD. & ORS* .....Respondents

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

Present: Mr. Amit Jhanji, Advocate,  
the petitioner.  
  
Mr. Ramesh Sharma, Advocate,  
for the respondents.  
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**RAKESH KUMAR JAIN, J. (Oral)**

The petitioner has challenged the letter dated 05.02.2016 by which he has been informed that his candidature has been cancelled for the allotment of dealership of the retail outlet of the Bharat Petroleum Corporation Ltd. (for short “the Corporation”) at the location “SH-13 between Nuh-Badkali Chowk, District Mewat, Haryana”.

In brief, the Corporation issued an advertisement dated 17.09.2011, inviting applications from the interested candidates for allotment of dealership of retail outlet at the aforesaid location. The said dealership was in open category and the last date for filing application is 21.10.2011. It was made clear in the advertisement that the Selection Committee would give marks to the applicants on the basis of the documents in terms of the following parameters: -

| <i>Sr. No.</i> | <i>Parameter</i>                                          | <i>Maximum Marks<br/>for individuals<br/>(including<br/>partnership)</i> | <i>Maximum marks<br/>(non-individual units)</i> |
|----------------|-----------------------------------------------------------|--------------------------------------------------------------------------|-------------------------------------------------|
| <i>A</i>       | <i>Capability to provide land<br/>and basic amenities</i> | <i>35</i>                                                                | <i>35</i>                                       |
| <i>B</i>       | <i>Capability to provide<br/>finance</i>                  | <i>2</i>                                                                 | <i>25</i>                                       |

|           |                                                   |                   |                   |
|-----------|---------------------------------------------------|-------------------|-------------------|
| <i>C.</i> | <i>Academic Qualification</i>                     | <i>15</i>         | <i>0</i>          |
| <i>D</i>  | <i>Capability of business promotion</i>           | <i>10</i>         | <i>25</i>         |
| <i>E</i>  | <i>Age</i>                                        | <i>4</i>          | <i>4</i>          |
| <i>F</i>  | <i>Experience</i>                                 | <i>4</i>          | <i>4</i>          |
| <i>G</i>  | <i>Professional capability/expansion capacity</i> | <i>5</i>          | <i>7</i>          |
| <i>H</i>  | <i>Personality</i>                                | <i>2</i>          | <i>0</i>          |
|           | <b><i>Total</i></b>                               | <b><i>100</i></b> | <b><i>100</i></b> |

The minimum benchmark was 60 marks. It was also provided in the advertisement that the applications, completed in all respects and containing necessary documents, may be submitted to the office of the Corporation on or before 21.10.2011 by 4.00 P.M. It was further provided that no additional documents would be accepted or considered after the cut-off date of the application.

The applicant was to provide the title documents of the land for the purpose of installation of the retail outlet and it was also provided in the advertisement that in case, the petitioner is not owner of the land, then copy of the consent letter/Affidavit/Power Of Attorney from the land owner should be enclosed.

In the application filed by the petitioner showing the area as a suitable site, readily available at the location, was admittedly owned by the wife of the petitioner i.e. Rizwana. It is also an admitted fact that the petitioner did not attach the consent letter/Affidavit/power of attorney (POA) executed in his favour in respect of the aforesaid land which was offered for the purpose of installation of retail outlet.

Be that as it may, the application of the petitioner was considered and the Committee comprising of two Members and a Chairman awarded 86.23 marks to the petitioner and consequently he was placed at Sr. No. 2 in the list whereas Yogesh Kumar, having 87.22 marks, was placed at Sr. No. 1 and Naresh Kumar, having 84.92 marks, was placed at Sr. No. 3.

It is also not in dispute that the candidature of Yogesh Kumar was cancelled. Therefore, petitioner was expecting that being already at Sr. No. 2, he would be upgraded to Sr. No. 1 and would be allotted the distributorship in question. However, during the field verification, it was found that the petitioner had not submitted the consent letter from his wife for the land offered by him for which he had been awarded the marks. Accordingly, there was another Review Committee, in terms of the provisions of the Complaint Redressal Policy dated 14.05.2010, which had found that the petitioner did not submit the consent letter or Affidavit or POA of his wife in regard to the offered land. Accordingly, the Review Committee deducted 35 marks, awarded to the petitioner, which resulted into reduction of his marks to 56.23. Since, it was less than 60% of benchmark, therefore, the petitioner was declared unqualified.

Learned counsel for the petitioner has submitted that there is no provision of Review Committee. It is also submitted that the first Committee, had rightly awarded 35 marks to the petitioner for the land offered by him and as per which he had secured 86.23 marks. He was though at Sr. No. 2 at that time but after the exit of Yogesh Kumar, who was at Sr. No. 1, he had stepped into his shoes and had become eligible for allotment of distributorship. In support of his submissions, he has relied upon a decision

of the Supreme Court rendered in the case of Sunita Gupta Vs. Union of India ; 2014 (15) SCC 601.

On the other hand, learned counsel for the respondent-Corporation has submitted that no doubt that the petitioner was at Sr. No. 2 at the time when first meeting took place in which he was awarded 35 marks for the land offered by him. But ultimately, it has been found during the field verification, that the petitioner has not submitted the necessary documents in terms of the advertisement and the brochure. It is also submitted that Complaint Redressal Policy dated 14.05.2010 further provides that *“whenever there is an error in awarding marks by L-2 Committee which affects the merit, re-interview of all the eligible candidates, who have appeared in the interview earlier, will be conducted.”*

It is further submitted that accordingly, re-interview was held in which the petitioner participated and at that time his original documents were again considered. It has been found that the petitioner has not submitted the consent letter for the land in question which is owned by his wife and therefore, the said land could not have been taken into consideration at the time of awarding the marks and the marks earlier awarded erroneously were deducted. The net result of the deduction of the marks led to the reduction in the total marks which comes to 56.23 and being less than the bench mark of 60%, therefore, the Corporation has rightly declared the petitioner as unqualified for the distributorship.

He has further submitted that the case of Sunita Gupta (Supra) is not applicable in the present case because in that case the documents were submitted whereas in the instant case, no documents were submitted at all.

I have heard learned counsel for the parties and after taking into consideration the aforesaid facts and circumstances, am of the considered opinion that there is no merit in the present petition because the allotment of retail outlet is not only governed by the advertisement but also by the brochure. In the present case, the parameters for awarding marks has been specifically laid down in the advertisement itself in which 35 marks has been kept reserved for the capability of providing land and basic amenities. At the same time, it has also been provided in the advertisement that the minimum marks required to compete is 60%. Meaning thereby, if a candidate do not secure 60% of marks, then his candidature would not be considered and he shall be declared as unqualified. It is also provided in the advertisement that the applications, alongwith necessary documents, were required to be submitted to the office of the Corporation on or before 21.10.2011 by 4.00 P.M. It is also provided that in no case additional documents would be accepted.

There is a specific provision in the advertisement, much less, the application form itself that if the land offered for the purpose of retail outlet is not owned by the applicant himself and the land offered by him is owned by any member of "Family Unit" then he had to seek the consent letter/affidavit/POA from the said owner of the land and to submit the same alongwith the title documents with the application. Admittedly, the petitioner is not the owner of the land offered by him as the same was owned by his wife Rizwana and the petitioner has failed to obtain her consent letter/Affidavit/POA while submitting the title documents. Therefore, there is no error on the part of the respondents in not giving him 35 marks in respect of that aspect. Even if, at the first instance, 35 marks were given and

ultimately, in terms of the Complaint Redressal Policy, it has been found that the first Committee has committed an error in awarding the marks, there was re-interview of all the eligible candidates and the matter was decided as to who would be the eligible candidate for allotment of the retail outlet. In the present case, the same exactly happened that in the field verification, it has been found that the petitioner has not submitted the consent letter from his wife for the land offered by him, therefore, 35 marks awarded by the L-2 Committee was deducted which resulted into reduction of total marks to 56.23 which was found to be less than the bench mark of 60% and as such the petitioner was declared unqualified. Moreover, the decision referred to by the learned counsel for the petitioner in the case of Sunita Gupta (Supra) is altogether on different facts and therefore, it is not applicable to the facts of the present case.

Thus, in view of the above, I do not find any merit in the present petition and the same is hereby dismissed, though without any order as to costs.

**March 12, 2018**  
Ess Kay

**(RAKESH KUMAR JAIN)**  
**JUDGE**

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