

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

1.

CWP No.25851 of 2017
Date of Decision: 10.05.2018

Parveen Kumar

. . . . Petitioner

Vs.

Union of India and others

. Respondents

2.

CWP No.395 of 2018

Sukhdev Singh

. . . . Petitioner

Vs.

Union of India and others

. Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

In CWP No.25851 of 2017

Present: - Mr.Jagdish Manchanda, Advocate,
for the petitioner.

Mr.Ashish Kapoor, Advocate,
for respondents No.2 to 4

In CWP No.395 of 2018

Present: - Mr.Jagdish Manchanda, Advocate,
for the petitioner.

Mr.Ashish Kapoor, Advocate,
for respondents No.2 to 4

Mr.Raman Sharma, Advocate,
for respondents No.5 to 8.

Mr.Rajnish K. Gupta, Advocate,
for respondent No.9.

RAKESH KUMAR JAIN, J.

This order shall dispose of 2 petitions bearing *CWP No.25851 of 2017* titled as ***“Parveen Kumar Vs. Union of India and others”*** [for short ‘the 1st petition] and *CWP No.395 of 2018* titled as ***“Sukhdev Singh Vs. Union of India and others”*** [for short ‘the 2nd petition] as the issue involved in both the petitions is common. However, for the sake of convenience, the facts are being extracted from the 2nd petition, which was ordered to be heard with the 1st petition, as the pleadings are complete in it.

In short, the petitioner is a resident of Village Bhuna, Tehsil Guhla, District Kaithal. The Indian Oil Corporation Limited [for short ‘the IOCL’], Bharat Petroleum Corporation Limited [for short ‘the BPCL’] and Hindustan Petroleum Corporation Limited [for short ‘the HPCL’] issued an advertisement to invite applications to appoint LPG distributors of different categories at different locations under the Rajiv Gandhi Gramin LPG Distributor [for short ‘the RGGLV’] in the State of Haryana including the location of Bhuna, Tehsil Guhla, District Kaithal in OBC (GP) category by IOCL for which the age criteria in the OBC category was 45 years which was relaxed to 60 years in case of the candidates applying in the category of OBC (GP). The petitioner had allegedly applied for the said location by depositing a sum of ₹1000/-. However, the said advertisement dated 30.6.2013 was withdrawn because none of the four applicants including the petitioner, who had applied for the location at Bhuna, met the eligibility criteria. The said location was re-advertised on 29.3.2015 but this time it was reserved for OBC instead of OBC (GP). Since there was no age relaxation in the case of OBC as it was there in the case of OBC (GP), the petitioner

could not apply as he was more than 45 years of age. Incidentally, the Ministry of Petroleum & Natural Gas vide its letter No.P-19011/7/2011-IOC(Pt-10)/LPG dated 14.7.2016 advised all the Oil Companies to cancel the advertisement of all locations of RGGLVs where draw and re-draw is required/yet to be conducted, except for the advertised locations which were under litigation. Accordingly, the selection process was cancelled and in this regard an advertisement was published in Dainik Jagran on 8.11.2016. The Oil Companies again issued an advertisement on 13.8.2017 for the appointment of LPG distributors of different categories under RGGLV but this time the location at Bhuna was offered to SC(W) in the Market Plan 2017-18. The petitioner naturally could not apply this time also and is relying upon his application filed pursuant to the advertisement dated 30.6.2013 and has raised the grievance that the respondents have reduced the reservation meant for the OBC, prescribed in the Brochure on Unified Guidelines for Selection of LPG Distributors, July 2016 [for short 'the Brochure'] contending that the reservation has already been prescribed to the extent of 50.5% for Open Category (O), 22.5% for Schedule Castes/Scheduled Tribes (SC/ST) and 27.0% for Other Backward Classes (OBC). It is also submitted that in the Brochure types of Distributorship area is mentioned as 'Sheheri Vitrak', 'Rurban Vitrak', 'Gramin Vitrak' and 'Durgam Kshetriya Vitrak (DVK)' and the same ratio has been prescribed for reservation. The sum and substance of the argument of the petitioner was that the category of location should not have been changed from OBC to SC(W).

Although respondents No.2 to 4 and 5 & 6 have filed their replies separately but they have maintained the similar stand and submitted that the locations for setting up of LPG distributorship are based on available refill sale potential, which can sustain economically viable operation of an LPG distributorship. Feasibility study for setting up of new LPG distributorships is based on refill sale potential which is based on the number of households, per capita consumption, LPG coverage and existing/proposed PNG connections if any. It is further averred by them that in order to ensure that the percentage reservations as are maintained, locations identified for setting up LPG distributorships under various categories (in all the states except Arunachal Pradesh, Meghalaya, Nagaland and Mizoram) are placed under different categories of reservation as per 200 point roster for each State for various categories on Industry Basis (IOCL, BPCL and HPCL together) so as to ensure the percentage reservation as envisaged for each category is achieved. In the 200 point roster, allocation of a reservation category again a serial number is given in such a manner that when 200 numbers of LPG distributors are planned, the percentage of each category of reservation is achieved. Continuity is maintained in the 200 point roster and once the 200 roster serial numbers are completed, a new roster is started from roster serial number 1. It is further the stand of the respondents that in pursuance of the first advertisement dated 30.6.2013 there were 4 applicants for location Bhuna, District Kaithal, who did not meet the eligibility criteria, therefore, there was re-advertisement in March 2015 which had to be cancelled in pursuance of the letter of the Government of India, Ministry of Petroleum & Natural Gas dated 14.7.2016 and a fresh advertisement was

issued in the year 2017. It is also submitted that the petitioner does not have any vested right even after applying in terms of the advertisement issued in the year 2013 which was cancelled and the location at Bhuna, District Katihal was re-advertised for the category of OBC only and not OBC (GP) and as a result thereof, the petitioner did not apply at that time and at the 3rd time when this location was advertised it was reserved for SC(W) category. The respondents have also referred to the Brochure much less to Clause 4 & 5 which read as under: -

***4. ROSTERING OF LOCATIONS AS PER 200-
POINT ROSTER***

In order to ensure that the percentage reservations as above are maintained, locations identified for setting up LPG Distributorships under various categories (in all the States except Arunachal Pradesh, Meghalaya, Nagaland and Mizoram) will be placed under different categories of reservation as per '200 point Roster' for each State for various categories on Industry basis (IOCL, BPCL and HPCL together) so as to ensure the percentage reservation as envisaged for each category is achieved.

In the '200-point Roster', allocation of a reservation category against a serial number will be done such that when 200 numbers of LPG Distributors are planned, the percentage of each

category (of reservation) is achieved. Continuity will be maintained in the '200 point roster' and once the 200 roster serial numbers are completed, a new roster will be started from roster serial number 1.

The "200 point roster" will be followed on rolling basis. Within a State, the distribution of locations reserved for SC or ST will be based on the ratio of population of SC & ST of the State.

There will be three '200' point rosters maintained on All India basis at Head Office of IOCL - one combined roster for "Sheheri Vitrak and Rurban Vitrak" and one each for Gramin Vitrak and Durgam Kshetriya Vitrak.

For the States of Arunachal Pradesh, Meghalaya, Nagaland and Mizoram, 100 point roster shall be prepared and same will be maintained at Indian Oil Corporation AOD State Office, Guwahati. The roster serial number under Unified Guidelines for Selection of Distributors will start from serial number 1.

5. DE-CATEGORISATION

In case, for a location under reserved category, there is no applicant found eligible,

decategorisation of the location will be done following the norms as under:

5.1 For reserved sub-category locations “GP” (Defence Personnel/Paramilitary Forces/Ex-servicemen/Special Forces/Employees of Central / State Governments / 8 Central / State Government PSU), “PH” and “CC (OSP/FF)” and Women, in case of ‘Nil’ response to the advertisement or no eligible candidate is found or no candidate qualifies or no selected candidate is able to commission the LPG Distributorship, then that location would be re- advertised in the respective category without sub-category i.e. locations will be advertised as only SC/ST, OBC or Open category as applicable.

5.2 For the location advertised /re-advertised under ‘SC/ST’ or ‘OBC’ category, if there is ‘Nil’ response or no eligible candidate is found or no candidate qualifies or no selected candidate is able to commission the LPG Distributorship, then that location would be readvertised under ‘Open’ category.

5.3 However, it will be ensured that the reservation is maintained on overall basis by

respective Oil Marketing Companies while de-categorization of the locations from earlier roster by converting corresponding number of LPG Distributorship locations under 'Open' category from the new roster to 'SC/ST' and 'OBC' category. In other words, shortfall in percentage SC/ST and OBC category will be made good in the future Marketing Plans so as to ensure the percentage for SC/ST of 22.5%, OBC of 27% and Open of 50.5% are maintained.

5.4 *With regard to reserved sub categories 'GP', 'PH', 'CC' and 'Women', reservation percentages will be maintained only at the time of initial categorisation. In other words, once the category of such locations is changed after the first advertisement if no candidate applies or no eligible candidate is found or no candidate qualifies or no selected candidate is able to commission the LPG Distributorship, no adjustment in the roster would be made under the future marketing plans."*

In the rejoinder, learned counsel for the petitioner has repeated his arguments that the location should not have been changed from OBC to SC(W) which has effected his right to apply.

I have heard learned counsel for the parties and perused the available record with their able assistance.

The petitioner had applied in the year 2013 when the location at Village Bhuna, Tehsil Kaithal was made available to the OBC and there was a relaxation of age for the OBC (GP), therefore, the petitioner, who was more than 45 years of age but below 60 years filed the application. The said advertisement was withdrawn which was never challenged by the petitioner. However, the said location was re-advertised but this time only for the OBC. Since a person upto the age of 45 years could have applied under OBC category, therefore, the petitioner did not apply. He did not challenge the validity of the second advertisement dated 29.3.2015 when the distributorship for the location at Bhuna was made available only to OBC and not OBC (GP). The said advertisement was also withdrawn pursuant to the letter of the Government of India, Ministry of Petroleum and Natural Gas on 8.11.2016 and in terms of the guidelines of the Brochure. Thereafter, the same location was re-advertised for the SC(W) category and not even for the OBC. Although the respondents have referred to 200 point roster which is provided in Clause 4 of the Brochure and also to Clause 5 of the Brochure which refers to the categories for the purposes of offering the location at Bhuna to SC(W), the petitioner could not point out any error on the part of the respondents who have alleged that the fresh feasibility study was conducted by industry team of Haryana for all locations including the RGGLC locations which were cancelled. Industry team confirmed that the Location Bhuna was feasible for setting up Gramin Vitrak in the next advertisement under the Unified Guidelines for selection of LPG Distributorship, after its re-assessment and therefore, the location was rostered afresh in the 200 point roster and advertised under Gramin Vitrak in

the reservation category SC(W). The respondents have also averred in their reply that the reservation policy for OBC has been started in recent years only and the total number of distributors mentioned by the petitioner includes the distributorships under project category also which is beyond the policy of reservation. It is averred that the date mentioned is of theoretical value only and cannot be concluded that the OMCs are not following the reservation policy for allocation of distributorship. For Haryana, the reservation for OBCs was maintained with 14 locations under this category, out of total 53 locations in the roster for 2016-17 which is in line with the roster points allocated in the 200 point roster and the percentage of reservation of OBC category has been maintained on industry basis for the State of Haryana for advertisement of new locations under Unified Guidelines.

Thus looking from any angle, I do not find any error on the part of the respondents for the purpose of interference in both the petitions and hence, the same are hereby dismissed though without any order as to costs.

A photocopy of this order be placed on the file of another connected case.

10.05.2018

Vivek

(RAKESH KUMAR JAIN)
JUDGE

Whether speaking /reasoned : Yes/No

Whether Reportable : Yes/No