

CWP No.7169 of 2018

[1]

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

CWP No.7169 of 2018
Date of decision:26.03.2018

Raj Kumar

...Petitioner

Versus

Bharat Petroleum Corporation Ltd. and others

...Respondents

Coram: Hon'ble Mr. Justice Rakesh Kumar Jain

Present: Mr. Sanjay Vashisth, Advocate,
for the petitioner.

Rakesh Kumar Jain, J.

The petitioner is aggrieved against the order dated 11.08.2017 by which Letter of Intent (LOI) issued to the petitioner on 18.03.2016 for the distributorship under category O(GP) of LPG (BP) at Panchkula location has been withdrawn.

In brief, the Bharat Petroleum Corporation Limited (herein after referred to as the "Corporation") issued an advertisement inviting applications for allotting LPG distributorship in the States of Punjab and Haryana at different locations under various categories. The last date for receipt of applications was 20.12.2013. The petitioner applied for the following six different locations:-

1. Saha, District Ambala;
2. Thana Chappar, District Yamuna Nagar;
3. Sacha Khera, District Jind;
4. Karnal;
5. Morni; and
6. Panchkula

The petitioner applied under the category O(GP), i.e. Other (Government Personnel) being dependent of government personnel who died in harness. The allotment of distributorship is regulated by the Brochure on Guidelines for Selection of Regular LPG Distributors-August 2013 (hereinafter referred to as the “Guidelines”) in which Clause 6 deals with the eligibility criteria for individual applications and Clause 6.1 with the Common Eligibility Criteria for all categories applying as individual. Clause 6.1(ii) provides as under:-

“6.1 Common Eligibility Criteria for all Categories applying as Individual

The applicant should

- i. Be an Indian citizen and be a resident of India.
- ii. Have minimum any one of the following educational qualification awarded by any of the Universities incorporated by an Act of the Central or State Legislature in India or any other educational institutions established by an Act of Parliament or declared to be deemed as a University under the UGC Act, 1956, or possess an equivalent qualification recognized by the Ministry of HRD, Government of India as on the date of application:
 - a) Graduation in any field
 - b) Chartered Accountant
 - c) Company Secretary
 - d) Cost Accountant
 - e) Diploma in Engineering

For applicants applying under the category of 'SKO dealers of OMCs', educational qualification shall be as under:

Should have passed minimum Xth standard examination or equivalent from a recognized Board.

The criteria of Educational Qualification will not be applicable for applicants belonging to Freedom Fighter (FF) category.”

Further Clause 11 of the Guidelines deals with the furnishing of false information, which reads as under:-

“11. FURNISHING OF FALSE INFORMATION

If any statement made in the application or in the documents enclosed therewith or subsequently submitted in pursuance of the application by the candidate at any stage is found to have been suppressed/misrepresented/incorrect or false affecting eligibility, then the application/candidature is liable to be rejected without assigning any reason.

In case the selection of the candidate is rejected after the FVC or after issuance of LOI but before issue of Letter of Appointment, then the 10% of the security deposit deposited by the selected candidate before FVC will be forfeited.

In case the selected candidate has been appointed as a distributor and the allotment is liable to be cancelled, then the distributorship will be terminated along with forfeiture of security deposit remitted by the candidate.

In such cases, the selected candidate/distributor will have no claim whatsoever against the respective Oil Company.”

Though the petitioner had applied for distributorship for six locations, as mentioned here-in-above, but he succeeded only for the location of Panchkula. He was asked to deposit ₹25,000/- vide letter dated 02.12.2017 for the Field Verification Credentials (FVC) of the information already supplied by him and accordingly, the petitioner deposited the said amount by way of demand draft dated 08.12.2014. The petitioner was already issued LOI on 18.03.2016. After the issuance of LOI, there were many complaints against the petitioner received by the Corporation in regard to false averments made in the application form. The petitioner was served with a show cause notice on 02.08.2017 as to why the LOI issued to him be not withdrawn on account of giving the false particulars about his educational qualification. The petitioner had mentioned that he is a graduate and obtained his graduation degree from EIILM University, Sikkim but during the FVC, he could not produce the original degree and the marks sheet. It is also intimated to him that upon an

enquiry from the UGC, vide its letter dated 17.04.2015, it had informed the Corporation that they are not in a position to authenticate the degree/certificate issued by the said University and that the recognition to the EIILM University was given only for the year 2009-10. It was also made known to him that the petitioner had, thereafter, represented to the Regional LPG Manager, North stating that he had inadvertently mentioned the name of the EIILM University instead of Manav Bharti University, Solan. It was also brought to the notice of the petitioner that he had applied for various locations and in all the applications he had mentioned in the column of educational qualifications as graduate (B.A.) from EIILM University. However, in the applications for the locations of Morni, Kalka and Saha, he had mentioned the year of passing his graduation as 2013 and in the application for the location of Karnal, he had mentioned the year of passing as 2012.

The show cause notice was received by the petitioner on 02.08.2017 but he did not give any explanation or reply within the prescribed time and, thus, it was found by the Corporation that the petitioner had deliberately provided incorrect information about his educational qualification in the application form. The Corporation, while relying upon Clause 11 of the Guidelines, point no.15 of the application form, para 9 of the affidavit submitted with the application form, Clause 9.3 of the LOI issued on 18.03.2016, cancelled the LOI issued to the petitioner.

Counsel for the petitioner has submitted that there is an error of omission on the part of the petitioner who had inadvertently mentioned that he had obtained graduation degree from EIILM University, Sikkim though he had obtained the said degree from the Manav Bharti University, Solan. It is also

submitted that he had inadvertently mentioned the year of passing in the application form for the location at Karnal as 2012, otherwise he had passed the graduation from the Manav Bharti University, Solan in the year 2013.

I have heard learned counsel for the petitioner and examined the available record with his able assistance.

There is no dispute that graduation in any field is one of the eligibility criteria provided in Clause 6.1(ii) of the Guidelines which regulate the selection and appointment of distributors. In the application form, there is a separate column no.8 dealing with the educational qualification in which it is specifically mentioned that it has to be provided by the applicant that as to from which University/institution he had obtained the degree/diploma and has to mention specifically the year of passing the same. It cannot be believed that the petitioner, who had allegedly passed his graduation from Manav Bharti University, Solan, would mention the EIILM University, Sikkim as the name of the University/Institute in all the application forms inadvertently, which were filled in for seeking distributorship at various locations. One can understand that a mistake is committed in filling of one of the application forms but it cannot be presumed to be an innocent mistake if the same particulars are filled in all the application forms meant for various locations.

The petitioner has been given opportunity of hearing by issuing a show cause notice to him before taking the decision of withdrawal of the LOI issued to him but he did not furnish any justification to the allegations made except for alleging that the information was given inadvertently. Clause 11 of the Guidelines categorically provides that if the information supplied in the application or the documents enclosed therewith is found to be false at any

stage, then the candidature of the applicant would be rejected without assigning any reason. The petitioner had also filed an affidavit in this regard about which reference has been made in the impugned order.

Thus, keeping in view the totality of the facts and circumstances mentioned here-in-above, I do not find any reason to interfere in this petition as the petitioner is solely to be blamed for providing false information in the application form(s).

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

March 26, 2018
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(Rakesh Kumar Jain)
Judge

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