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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 29th August, 2018

+ LPA 496/2018, CM No. 35177/2018 (stay)

KAVITA

..... Appellant

Through: Mr. Gaurang Kanth, Adv.

versus

INDIAN OIL CORPORATION LTD & ANR Respondents

Through: Ms.Malanarayan, Adv. with Ms.Neha
Dawak & Ms.Madhumanti Ghosh, Advs. for R-
1/IOCL

Mohd. Sajid, Adv. for R-2

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

J U D G M E N T

Rajendra Menon, Chief Justice (Oral)

C.Ms.No.35178-79/2018 (exemptions)

Allowed, subject to all just exceptions

LPA 496/2018

1. Seeking exception to an order passed by the writ Court on 14.08.2018 in the matter of allotment of retail outlet to Scheduled Caste/Scheduled Tribe Letter of Intent (LOI) holders, the petitioner has filed the present appeal. The learned writ Court having dismissed the writ petition, the petitioner is before this Court. Various averments are made in this appeal and we find that the learned writ Court in detail has adverted to various submissions. The only dispute was as to whether the allotment in question has to be made by determining the seniority *inter se* between the allottees on

the basis of the date of interview or the date on which the LOI was issued.

2. The learned writ Court found that the allotment based on the date of interview, as canvassed by the petitioner, is not a feasible or proper method. Determination of seniority based on the date of issuance of LOI was found to be more appropriate by the writ Court and, therefore, the learned Court disposed of the writ directing the allotment based on seniority with regard to issue of LOI.

3. It is the grievance of the petitioner that in case of the petitioner, because of procedural irregularities, there had been delay in issuance of LOI and the delay being not attributable to the petitioner, the petitioner's right could not be taken away because of administrative delay on the part of the authorities in only issuing the LOI after a period of more than 145 days. It was argued that the LOI has to be issued within a particular time frame, that is, within 10-15 days of conduct of the interview and in case of the petitioner, the administrative delay was occasioned because of the respondent company and the petitioner is made to suffer in view of this.

4. We find that from para-11 onwards, the learned writ Court has examined all these issues and in para-12.1, 12.2, 12.3 and 13, the issue has been dealt with in the following manner:-

12.1 It is possible that the committee so constituted, is unable to hold interviews of all candidates on a given date. Therefore, merely, because interviews are held on different dates and results are declared thereafter, perhaps, on separate dates, would also not offer, a satisfactory criterion. The only reason that Mr. Kanth suggests that the date when the interviews were held and the results declared was a better criterion is because the petitioner's interview was held on 21.7.2004, whereas the interview of respondent No.2 was held on 6.8.2004.

12.2 However, what Mr. Kanth forgets is that respondent No.2 had filed his application for allotment of retail outlet with IBP, prior to its merger with IOCL.

12.3 Therefore, while respondent no.2's interview was held later, fortuitously, the LOI, in his case, was issued on a date earlier to that when IOCL issued the LOI in favour of the petitioner. The LOI, as indicated above, was issued on 31.8.2004 in favour of respondent no.2 while, IOCL issued the LOI in favour of the petitioner on 30.9.2004.

13. No doubt, the period of delay, as Mr. Kanth says, between the holding of interviews and the declaration of results and hence issuance of LOI, is not uniform, but the reasons for delay are not available on record.

5. The learned writ Court finally came to the conclusion that the criteria adopted by the respondent company for determination of seniority in accordance with the date of issuance of LOI is a reasonable one and thought it appropriate to dismiss the writ petition.

6. In our considered view, the factors that weighed with the learned writ Court for doing so cannot be termed as unreasonable or illegal to such an extent that interference into the matter now by this Court is called for, as it is a reasonable one in the facts and circumstances of the case.

7. Finding no error in the impugned order passed by the learned writ Court, we dismiss the appeal along with the pending application.

CHIEF JUSTICE

V. KAMESWAR RAO, J

AUGUST 29, 2018/ 'anb'