

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.887 of 2017

In

Civil Writ Jurisdiction Case No.7338 of 2012

Shakti Rai, Son of Sri Surendra Kumar Sinha, Resident of Village - Neem
Chak Bathani, Tola-Gorai Bigha, P.O. Bathani, P.S. Neem Chak Bathani,
District-Gaya

... Petitioner ... Appellant/s

Versus

1. The State of Bihar
2. The Collector, Gaya.
3. The Sub-Divisional Officer, Neem Chak Bathani, Gaya.
4. The Circle Officer, Neem Chak Bathani, Gaya
5. The Bharat Petroleum Corporation Ltd., Territory Office, Patna.
6. The Territory Manager (L.P.G.), Bharat Petroleum Corporation, Fatuha
Industrial Area, Fatuha, Patna.
7. Smt. Priya Gupta, D/o Sri Avind Kumar, W/o Sri Dharmendra Kumar, R/o
Biharsharif, P.S. Sohsarai, Distt.-Nalanda.

...Respondents ... Respondent/s

Appearance :

For the Appellant/s	:	Mr.Rajeev Kumar Singh, Advocate
For the State	:	Mr.Kamil Akhtar, A.C. to Aag5
For the BPCL	:	Mr. Siddhartha Prasad
		Mr. Om Prakash Kumar, Advocates
For the respondent no.7	:	Mr. Satyavrat Verma
		Mr. Shashank Chandra, Advocate

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY

and

HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE SHIVAJI PANDEY)

Date : 04-11-2019

Heard learned counsel for the appellant, learned
counsel for the State, learned counsel for the Bharat Petroleum



Corporation Ltd. and learned counsel for respondent no.7.

In the present case, the petitioner is challenging the order dated 17.02.2012 which has been rejected by Bharat Petroleum Corporation Ltd. (hereinafter referred to be as “the Corporation:”) holding that there is no illegality in awarding dealership to respondent no.7 under the Rajiv Gandhi Gramin LPG Vitarak (RGGLV) having held that respondent no.7, Smt. Priya Gupta as per circle officer vide letter no.55 dated 18/10/11 has held that she is resident of Neem Chak Bathani, Gaya and later on the residential certificate vide No.2133 dated 15.03.2011 was issued in her favour, was valid till the date of her marriage, i.e., 09.07.2011

An advertisement was published for awarding the dealership under the Rajiv Gandhi Gramin LPG Vitarak (hereinafter referred to be as “RGGLV”) on 28.02.2011 for selection of a proper candidate for the purposes of allotment of dealership under the RGGLV scheme at the cluster of village Bathani, Arhanpura, Sonsa Dharmu chak, Nemthu, Chari Sandi, Neem Chak Bathani, District, Gaya. The petitioner and respondent no.7 along with others made their application and before last date of receipt of application. i.e., 30.03.2011. Under the advertisement, it has been prescribed in Column



“Kha” that person must be an Indian citizen and he should be resident of village or town. Respondent no.7 submitted all the relevant documents along with residential certificate issued by the Block Development Officer, Neemchak, Bathani dated 18.03.2011 part of Annexure R/1 showing that respondent no.7 daughter of Arvind Prasad, is resident of the said place and that has been issued on the basis of information supplied by the Panchayat Sevak. Lottery was held on 05.08.2011 in which respondent no.7 was declared selected. After selection as per the petitioner he could know that respondent no.7 is not a resident of Neemchak, Bathani and the entire family has shifted to the district of Biharshariff and for that he has placed reliance on the voter list (Annexure 8) in which the name of respondent no.7 is appearing at Serial No.585, her father name is appearing at Serial No.577, her mother name is appearing at serial no.578, her brother name is appearing at serial no.584 and her sister name is appearing at serial no.586. Learned counsel further submits that the grant of dealership is *per se* illegal. He has further submitted that when he made an inquiry and at the same time under the Right to Information Act, information was supplied to the petitioner by letter no.199 (Annexure – 4A) wherein it has been mentioned that Priya Gupta is resident of



Biharshariff and she had been residing there for the last 20 years. It has been further submitted that the family members of Priya Gupta were resident of Neemchak, Bathani 20 years earlier and at present they are residing at Nalanda and thereafter cancellation memo no. 198 dated 14.9.11 (Annexure-5) was issued showing that residential certificate No.2793 dated 15.03.2011 has been cancelled and the counsel for the respondent no.7 has pointed out that this letter is memo no.14.09.2011 but it appears that it has been signed on 13.08.2011 itself shows that it is an anti-dated document and it has been obtained by wrong method.

Be that as it may, we are not examining this aspect of the matter but letter dated 18.10.2011, the cancellation has been modified to the extent that the residential certificate would remain valid up to-date of her marriage on 09.07.2011 but counsel for the petitioner submits that the lottery was held on 05.08.2011 and the marriage was solemnized on 09.07.2011 so on the date when the lottery was conducted, she was admittedly not resident of Neemchak, Bathani but in the present case, crucial date would not be the date of opening the lottery but would be last date fixed for receipt of application, i.e., 30.03.2011. Admittedly, the certificate as per letter no.255 dated



18/10/11 (Annexure 6) is valid till 09.07.2011 inasmuch as counsel for the respondent has submitted that family members do have the land at Neem Chak Bathani in proof the name of grandfather respondent no.7 is still standing in the Kathian of Neemchak, Bathani. It has been further submitted that till the date of marriage, residential certificate is/was valid, i.e., receipt of the application cannot be declared to be bad at the latter stage as daughters is now co-parcener of the family. Counsel for the respondent no.7 has placed reliance upon a decision of this court rendered in **Niraj Kumar Vs. Indian Oil Corporation Ltd. 2009(3) PLJR 591** wherein the court has taken a view that a person may have several houses but it cannot be said that he cannot claim the resident at the root. Admittedly, the land possession certificate was produced before the authority concerned itself shows that she was / is also resident of Neemchak, Bathani, Gaya. So far as name of petitioner and family members appearing in the voter list is concerned, it is only for the purposes of casting the vote, for example, if a person is shifted at another places for service for certain period then he gets a right of voting but on transfer, he goes to another place, the right of voting is transferred to another place but it does not mean that the person who has been



shifted to another place lost his right of original place.

This Court does not find any merit in the present appeal. Accordingly, this appeal is dismissed and the order of the learned Single Judge is affirmed.

(Shivaji Pandey, J)

(S. Kumar, J)

Sanjay/-

AFR/NAFR	NAFR
CAV DATE	NA
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