

IN THE HIGH COURT OF JUDICATURE AT PATNA
Letters Patent Appeal No.1270 of 2018

In
Civil Writ Jurisdiction Case No.14425 of 2018

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1. The Indian Oil Corporation Ltd. through its General Manager (LPG-S) Ist Floor Shahi Bhawan Exhibition Road, Patna.
 2. The Chairman Cum Managing Director, Indian Oil Corporation Ltd. G-9 Ali Yavar Jung Marg, Bandra (East), Mumbai-400051.
 3. The Deputy General Manager LPG-S, Indane Area Office, Patna.

... .. Appellant/s- Respondents in the writ petition
Versus

Rupesh Kumar Verma S/o Kali Prasad Verma, Resident of Under Kila Tekari, P.S.- Tekari, District- Gaya. Respondent/s

Appearance :

For the Appellant/s	:	Mr. K. D. Chatterji, Senior Advocate Mr. Amlesh Kumar Verma, Advocate Mr. Ankit Katriar, Advocate
For the Respondent/s	:	Mr. Subodh Kr. Jha, Advocate Mr. Pranav Kr. Jha, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE JUSTICE SMT. ANJANA MISHRA

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 26-06-2019

Heard learned Senior Counsel for the appellants Shri K. D. Chatterji and Shri Subodh Kumar Jha, learned counsel for the respondent-petitioner.

The dispute lies in a very short compass where the claim of the respondent-petitioner in respect of award of LPG dealership on the basis of land offered for the site of a godown has been allowed by the learned Single Judge. The impugned judgement of the learned Single Judge has been assailed by the Indian Oil Corporation on the ground that the terms and conditions of the advertisement, the brochure and the requirement of the documents



as per the settled guidelines had not been tendered by the respondent-petitioner, hence the dealership could not be awarded to the respondent-petitioner on the basis of a subsequent rectification deed as tendered by the said respondent. The contention, therefore, is that the learned Single Judge has committed an error in carving out a distinction by not applying the law of the Division Bench of this Court correctly as enunciated in the case of **M/s Indian Oil Corporation Ltd. & Anr. Vs. Raj Kumar Jha & Ors. reported in 2012(2) PLJR 783.**

There are certain admitted facts which remain undisputed, namely, that the last date for filling up of the application form and tendering the same was 14th of August, 2017 for award of an LPG dealership for which land was required for setting up of a godown.

The respondent-petitioner applied and undisputedly the offered land was under a lease which was described as Plot No.123 of Khata No.356 with specific boundaries. According to the guidelines, a field verification was carried out and then it was pointed out to the applicant-respondent-petitioner that the said land does not meet the eligibility criteria and consequently an opportunity was given to the respondent-petitioner to offer an alternate land as per the guidelines.



The respondent-petitioner instead of availing of the opportunity of offering an alternate land, tendered a rectification deed dated 12th of June, 2018 wherein he took the stand that the Khata and the plot number of the land offered in the original application form was an incorrect recital on account of the mistake in the lease deed itself and, therefore, the same has been rectified through a separate deed (*Shudhi Patra*) and, therefore, the same land which has been tendered by him should be treated to be the land offered by the respondent-petitioner.

The report of the field verification as well as the tendering of this rectification deed has not been accepted by the Indian Oil Corporation whereafter aggrieved the respondent-petitioner filed the writ petition that has been allowed holding that the rectification deed dated 12th June, 2018 and the original lease deed should be read as one and the same document, inasmuch as, the boundaries of the said plot offered and that was verified during field verification does not stand altered. The learned Single Judge therefore, held that if the land remains the same, then the Indian Oil Corporation cannot take a plea that there is any error in the application form and also that the respondent-petitioner had not misrepresented in any way so as to make him ineligible. While considering the impact of the Division Bench judgement in the case



of **M/s Indian Oil Corporation Ltd. & Anr. Vs. Raj Kumar Jha & Ors (supra)**, the learned Single Judge distinguished the same on the ground that in that case there was an error which was found to be unacceptable and, therefore, the facts of the said case would not lead to a ratio so as to apply on the facts of the present case.

Learned counsel for the appellants contends that the distinction drawn is artificial, but the ratio of the said decision squarely applies, inasmuch as, in the instant case, the respondent-petitioner himself has admitted the mistake which is evident from tendering of the rectification deed itself. It is, therefore, submitted that keeping in view the terms and conditions of the advertisement which categorically provides that any error, be it a mistake, found in the description made would render the applicant ineligible. It is, therefore, urged that the same is the ratio of the Division Bench judgement and, therefore, the learned Single Judge fell into an error in allowing the writ petition.

Learned counsel for the appellants submitted that assuming that the land is the same and on which there is not much of a debate, yet the information tendered in the application form is of an entirely different plot number which varies substantially from the plot number given in the rectification deed. This incorrect information clearly amounts to a wrong information having been



given which disentitles the respondent- petitioner from being considered as an eligible candidate.

Replying to the said submission, learned counsel for the respondent-petitioner contends that firstly, the error in the deed was a typographical error which was rectified by an appropriate deed and a emphasis was laid by the learned counsel contending that so long as the land remains the same, with the same boundaries, the Indian Oil Corporation could not have non-suited the respondent-petitioner when there is neither misrepresentation or fraud or any element which may give any undue advantage to the respondent-petitioner on account of such typographical error. It is, therefore, submitted that the caveats provided in the advertisement as well as in the brochure by the Indian Oil Corporation about any information is only intended to prevent any element of fraud or misrepresentation and not disentitle an otherwise eligible candidate. He, therefore, submits that once the identity of the land remains the same, there was no occasion for the respondent-petitioner to have offered any alternate land and the rectification deed ought to have been accepted which has been considered to be in order by the learned Single Judge as well. He, therefore, submits that the impugned judgement does not require any interference and the appeal deserves to be dismissed.



We have considered the submissions raised and we find that the advertisement categorically prescribes that a candidate would be rendered ineligible if the information given amounts to withholding or concealing any fact or tendering of an incorrect information or a false information that would result in affecting the eligibility of the candidate. The three categories which have been specifically provided have, therefore, to be read as indicated therein and, in our considered opinion, **any incorrect information would affect the eligibility of a candidate**. In the instant case, it is admitted on record that the information given by the respondent-petitioner with regard to the plot of the land and khata number in the application form was an incorrect information and was, therefore, a wrong information. The plot number and the khata number was 123 and 356 respectively. This mistake was accepted by the respondent-petitioner himself when he tendered the rectification deed on 12th of June, 2018 long after the expiry of the last date of the application form. There is a substantial variation in the number of khata and the plot that was subsequently tendered as Khata No.300 with Plot No.122 and the same, in our opinion, is not such an error which can be termed as a typographical error at least in the application form of the respondent-petitioner. The error may have occurred in the deed for which the respondent-petitioner is



clearly responsible and this stands admitted by him in view of the rectification deed tendered later on. Consequently, the information as contained in the application form and the deed which was filed along with the same palpably gave an incorrect information with regard to the khata and the plot number. This therefore disentitled the respondent-petitioner from being treated as an eligible candidate. The conclusion drawn by the learned Single Judge bereft of these facts therefore cannot stand the scrutiny of law. Shri K. D. Chatterji, learned Senior Counsel for the appellants is, therefore, correct in his submission that the Division Bench Judgement as relied upon by the appellants in the case of **M/s Indian Oil Corporation Ltd. & Anr. Vs. Raj Kumar Jha & Ors. (supra)** squarely applies on the facts of the present case.

We, therefore, allow the appeal and set aside the impugned judgement with no order as to costs.

(Amreshwar Pratap Sahi, CJ)

(Anjana Mishra, J)

Sunil/-

AFR/NAFR	AFR
CAV DATE	NA
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