

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.13921 of 2013

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Sujeet Kumar S/o Shri Sudhir Kumar Mahto R/O Lagan Cloth Shop, Karak Marg, Near Suri School, P.O. & P.S. & Dist.- Madhubani

... .. Petitioners

Versus

1. The Bharat Petroleum Corporation Ltd. Through The General Manager, Bharat Bhawan 2nd Floor, Plot No. 31, Kit Scheme No. 118, Prince Golan Mohammad Shah Road, Near Doordarshan Kendra, Kolkatta- 700095
2. The Territory Manager (LPG) Bharat Petroleum Corporation Ltd. Fatuha, Patna

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Gautam Kejriwal, Advocate Mr. Atal Bihari Pandey, Advocate Mr. Alok Kumar Jha, Advocate
For the B.P.C.L.	:	Mr. Siddhartha Prasad, Advocate Mr. Om Prakash Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 08-01-2019 This writ application has been preferred for issuance of writ in the nature of certiorari to quash and cancel the communication as contained in letter dated 13.04.2013 bearing Ref. No. PT./OMP/2012/Madhubani issued by the respondent Territory Manager (LPG) Bharat Petroleum Corporation Ltd. (hereinafter referred to as the 'the BPCL'). By the impugned letter/communication the petitioner's candidature for LPG distributorship was denied at the Technical Bid stage itself.

It appears that during pendency of the writ application the LPG distributorship was allotted to one M/s. Hussain Bharat Gas, Stadium Road, Madhubani through it's Proprietor Moein



Hussain. It is not in dispute that the allottee has already made his investment and commissioned the LPG distributorship sometime in the year 2014 itself.

Mr. Gautam Kejariwal, learned counsel representing the petitioner has drawn attention of this Court towards two Interlocutory Applications preferred by the petitioner immediately after the allotment was made in favour of M/s. Hussain Bharat Gas. Vide I.A. No. 3103 of 2014 the petitioner sought amendment of the relief prayed in Paragraph-1 of the writ application whereunder he made a prayer to quash the letter of intent issued in favour of allottee and then vide I.A. No. 3131 of 2014 the petitioner sought impleadment of M/s. Hussain Bharat Gas, Stadium Road, Madhubani through it's Proprietor Hussain S/o Md. Hussain as respondent no. 3. Unfortunately both the Interlocutory Applications remained pending and no order thereon could be passed.

Learned counsel for the Petroleum Company has submitted that during pendency of the writ application even though the matter was taken up for consideration on 16.04.2014 and 21.04.2014 i.e. after filing of the Interlocutory Applications no interim order thereon could be obtained by the petitioner. In other words it is submitted that in absence of any order of



restraint or a direction that further action of the Petroleum Company would be subject to result of the writ application if the Petroleum Company has proceeded with the matter and created a third party right, no fault may be found with the same. It is submitted that the allottee has made huge investment in commissioning of the LPG distributorship and for last five years he has made a number of customers and at this stage he cannot be taken up by a surprise and called upon to contest a litigation with respect to his allotment.

Having heard learned counsel for the parties, this Court is of the considered opinion that the submissions advanced on behalf of the Petroleum Company has got much force and the Court is inclined to accept the same. It is apparent from the records that the writ application was taken up on 16.04.2014 and again on 21.04.2014. Despite listing of the matter if no interim order was either prayed or passed by the learned Writ Court and the things were allowed to proceed which ultimately culminated in commissioning of the LPG distributorship, at this stage after about five years, this Court is not willing to exercise its discretion by calling upon the allottee to subject himself to the present proceeding.

It is well settled that jurisdiction of this Court under



Article 226 of the Constitution of India is in the nature of an extra ordinary remedy provided to the petitioner and reliefs granted under Article 226 of the Constitution of India are in the nature of discretionary relief.

In the given facts and circumstance, this Court would not be willing to exercise its discretion, so as to interfere with the allotment made in favour of M/s. Hussain Bharat Gas, Stadium Road, Madhubani. The petitioner was ousted at Technical Bid stage itself.

This writ application is, thus, dismissed. The issue raised by the petitioner shall remain open for consideration in an appropriate proceeding.

(Rajeev Ranjan Prasad, J)

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