

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.23320 of 2019

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Kavita Kumari, wife of Manoj Prasad Singh, resident of village and Post-Gopalbad, P.S.- Sarmera, Distt.- Nalanda.

... .. Petitioner/s

Versus

1. The Union of India through the Secretary, Petroleum Ministry, New Delhi.
2. The General Manager, Indian Oil Corporation, Regd. Office G-9, Ali Yavar Jung Marg, Bandra East, Mumbai.
3. The Chief Divisional Retail Sales Manager, Patna Divisional Office Marketing Division Block- A Maurya Lok Complex third floor, Dak Bungalow Road, Patna.
4. The General Manager (Retail Sales), Patna India Oil Corporation, Maurya Lok Complex, third floor, Dak Bungalow Road, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Sanjay Kumar, Adv.
Mr. Amresh Kumar, Adv.

For the Respondent/s (IOC) : Mr. Ankit Katriar, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date : 26-11-2019

Heard Mr. Sanjay Kumar, learned Advocate for the petitioner and Mr. Ankit Katriar, learned Advocate for the respondent/Indian Oil Corporation (*in short the Corporation*).

2. The petitioner is aggrieved by the



communication made to her *vide* letters dated 06.09.2019 and 09.09.2019, contained in Annexure - 8 and 8/1 to this writ petition respectively, issued by the Chief Divisional Retail Sales Manager, Patna Divisional Office, Indian Oil Corporation Ltd., intimating her that the location for the retail outlet which was advertised was not found to be existing and, therefore, the location was being cancelled with the approval of the competent authority. While communicating this fact, the petitioner was made known that the cancellation of location was based on technical grounds and no fault was attributable to the petitioner and, therefore, the amount of Rs. 1,000/- which she had deposited as fee was also being returned to her.

3. Learned counsel for the petitioner has challenged the aforesaid decision of the respondent/Corporation on two grounds. The first ground raised by the petitioner is that in the first instance, the candidature of one Anil Kumar in the OBC category was found to be acceptable and aforesaid Anil Kumar submitted the documents before the Land Evaluation Committee for



obtaining "No Objection Certificate" with respect to the land over which the retail outlet/pump was to be put up. On enquiry, it was found that the documents of the land reflected incorrect numbers and, therefore, the candidature of aforesaid Anil Kumar was rejected.

4. This actually led to the selection of the petitioner.

5. The point which the petitioner seeks to drive home is that if the location of retail outlet/pump was not found to be correct, there was no occasion for evaluating the land offered by one of the successful candidates, viz., Anil Kumar. In that event, it was not open for the respondent/ Corporation to have rejected the retail outlet location with respect to the petitioner when she had filed her documents for the land in question for evaluation.

6. The other arguments advanced on behalf of the petitioner is that in accordance with the guidelines with regard to the selection of retail outlet for the dealers, it has been laid down that the Oil Corporation has the authority, without intimating any reason, to cancel/recall/amend the



advertisement and it would also be permissible for the company to extend the date for opening of such outlets. Thus, it has been submitted that if once an advertisement is issued with respect to opening of a retail outlet with specification of such outlet to be within 1 km. distance of the newly constructed middle school, it was not open for the respondent/Corporation to have changed the location on the specious plea that no such school exists.

7. In order to spike the aforesaid argument, as noted above, Mr. Kumar submits that the respondent/Corporation does not have the authority to change the location and the powers extend only to cancelling or recalling or amending the advertisement.

8. Mr. Ankit Katriar, learned counsel for the respondent/Corporation, has submitted that on determining the factual aspects of the matter, the Corporation took a decision of changing the location of the retail outlet. Though the letter communicating the petitioner about cancellation of the location of the outlet mentions the reason that there is no school existing there which was taken as a milestone for



selecting the outlet, but the fact of the matter is that by the aforesaid decision, the Corporation has chosen to amend the advertisement. The petitioner, as a selected candidate, cannot be permitted to stake her claim as if she has a vested right for being selected as an allottee/concessionaire.

9. The decision with respect to opening of an outlet at a particular location is in the exclusive domain of the respondent/Corporation and the decision cannot be questioned by an aspiring candidate, when no agreement has been entered into with such candidate.

10. Mr. Sanjay Kumar, learned counsel for the petitioner, has submitted that only because the candidature of aforesaid Anil Kumar could not be accepted because of the absence of "No Objection Certificate" with respect to the land offered by him, some subterfuge has been adopted by the respondent/Corporation for defeating her claim for ulterior purposes. Though this statement has been made at the Bar, but the records, which have been brought on record, do not suggest any such *mala fide* decision.

11. For the reason that the selected candidate



does not have a vested right of being chosen as a concessionaire and the contractual agreement not having been entered into with the petitioner, the claim of the petitioner to open a retail outlet at a place which was earlier designated in the advertisement cannot be given effect to by an order of the Court.

12. This Court does not find any *mala fides* in the change of the retail outlet or for that matter amendment in the decision with respect to the location.

13. However, the petitioner shall not be precluded nor would he be put to any disadvantage, if she applies afresh with a new location for which the respondent/Corporation would issue any advertisement in that regard.

14. With the aforesaid observation/direction, the writ petition stands disposed off.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	29.11.2019
Transmission Date	N/A

