

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 228 of 2012**

Narayan Prasad Guru S/o Shri Gadadhari Prasad Guru R/o Plot No.
C 169/1 Tagao Nagar Katora Talab Distt. Raipur Cg --- **Petitioner**

Versus

1. Bharat Petroleum Co. Ltd. Veer Narayan Complex Nagar Gadi Chowk Raipur Chhattisgarh
2. Bharat Petroleum Corporation Limited Veer Narayan Complex Nagar Gadi Chowk Raipur Chhattisgarh
3. Chief Divisional Officer Regional Manager Bharat Petroleum Corporation Limited Veer Narayan Complex Nagar Gadi Chowk Raipur Chhattisgarh
4. Niraj Kumar Dani R/o Vill. Ahiwara Distt. Durg Chhattisgarh

---- Respondents

For the Petitioner	:	Mr. Pankaj Agrawal, Advocate
For respondents 1 to 3	:	Mr. Tarkeshwar Nande, Advocate
For respondent No.4	:	Mr. P.R. Patankar, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****22.07.2019**

1. The present petition is against the allotment of petrol pump to respondent no.4 in the year 2012. It is not in dispute that the retail outlet petrol pump was to be allotted at village Ahiwara District Durg. This allocation of petrol pump was meant for physically handicapped persons. The petitioner, who is physically handicapped person, applied for the same among others including respondent no.4.
2. Learned counsel for the petitioner would submit that after the application was submitted, the interview date was fixed on 03.01.2012 whereas he received the letter of intimation for interview on

04.01.2012 after the interview was over. Counsel referred to Annexure P-5 the intimation of interview sent by speed post and submits that the documents would demonstrate that the intimation was dispatched on 02.01.2012 at 15.56 hours from Raipur to be delivered to the petitioner. Therefore, the respondents Company had deliberately committed mistake in sending the intimation and it was within a short span of time so made to deprive the chance of petitioner to appear in the interview.

3. Learned counsel for respondents 1, 2 & 3 would submit that the interview letter was sent on 19.12.2011 and the intimation by telegram was sent on 30.12.2011. He submits that if the fault has been committed by the Telegraphic office, the delay cannot be attributed to the respondents' Company. Counsel for the respondent No.4 submits that after the receipt of interview letter on time he appeared in interview before the Board on 03.1.2012..
4. perused the documents. It is not in dispute that the retail outlet petrol-pump was to be allotted to physically handicapped persons. The petitioner heavily relies on document Annexure P-1 and submits that the date of interview was 03.01.2012 and the intimation was dispatched on 02.01.2012 which was received by him on 04.01.2012 after the interview was over. The contention of respondents 1, 2 & 3 i.e., the Oil Company is that though they have dispatched the letter of interview on 19.12.2011 but nothing on record to show that what document was sent along-with it, only the postal receipts were enclosed. The telegraph receipts filed as Annexure R-2 and R-3B shows that certain communication was sent by the respondent Oil Company on 30.12.2011. It is not clear that what communication was made. Therefore, the entire issue revolves around Annexure P-5 along-with the attachments. The 2nd page of Annexure P-5 would show the booking date of Telegram of BSNL as 30.12.2011 which

was received at CTO Raipur on 31.12.2011 wherein it was mentioned that the interview was scheduled to be held on 03.01.2012. As per the contention of the petitioner this letter was communicated to him in an envelop. Annexure P-5 the first page would show that a telegram was sent on 02.01.2012 at 15.56 which is said to have been received by the petitioner on 04.1.2012 at 9.30 am after the interview was over. It appears that BSNL though received the information but was sitting over it and did not communicate the same in time.

5. In the array of respondents, the BSNL has not been made a party who would have been in a best position to explain the reasons of delay. In view of such fact that BSNL has not been made a party, what was the reason for the delay and how the communication of interview letter was delivered late remain a question of fact. In order to find out the reasons for the delay or late communication to the petitioner, this Court has to go into roving enquiry to appreciate the evidence which cannot be made under Article 226 of the Constitution of India. In the facts situation of the case, no relief can be granted in absence of proper party to the petition. Accordingly, the petition is dismissed. The petitioner shall be free to avail the appropriate remedy if it is available to him under the law.

Sd/-

**GOUTAM BHADURI
JUDGE**