

HIGH COURT OF CHHATTISGARH, BILASPUR**WPC No. 170 of 2014**

- Mahavir Prasad Agrawal S/o Shri Radheshyam Agrawal Aged About 40 Years R/o Village Nawapali, P.O., P.S. And Tahsil Baramkela, Civil And Revenue Distt. Raigarh C.G.

---- Petitioner**Versus**

1. Indian Oil Corporation Limited, Registered Office Ali Yavar Jung Marg, Bandra (East), Mumbai 400051 India
2. The Chief Area Manager, Indian Oil Corporation Ltd., Raipur Area Office, Rajiv Gandhi Marg, Telibandha, P.O. Ravigram, Raipur 492006 C.G.
3. Pankaj Kumar Agrawal S/o Gobardhan Agrawal, aged about 25 years, R/o Prakash Medical, Main Road, Baramkela, Tahsil – Baramkela, District – Raigarh (C.G.) Pin - 496551

---- Respondents

For Petitioner	:	Shri Shashi Bhusan Singh Patel, Advocate
For Respondents No.1 & 2	:	Shri Anand Shukla, Advocate
For Respondent No.3	:	Shri Parag Kotecha, Advocate with Shri Shalvik Tiwari, Advocate
For Respondent/State	:	Shri Sudeep Verma, Dy. GA

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****09/08/2019**

1. Heard.
2. The present petition has been filed for the following reliefs:-

“10.1 That this Hon'ble Court may kindly be pleased to direct the respondents to cancel the notice/proposal dated 19.09.2013 (Annexure P-2) and republish with correction.

10.2 This Hon'ble Court may issue any writ, direction or order which deem fit in the favour of the petitioner and against the respondents to grant necessary relief to the petitioner.

10.3 This Hon'ble Court may kindly be pleased to issue a writ mandamus thereby setting-aside order (Annexure P/1) dated 08.01.2014, issued by respondent No.2, whereby candidature of petitioner was rejected and order Annexure P/6. Whereby draw in respect of LPG Vitrak has been held on 23.02.2015, in the ends of justice."

3. It is contended on behalf of the petitioner that an advertisement was made to appoint LPG distributor under the Rajiv Gandhi Gramin LPG Vitrak at different locations and the advertisement was made on 18.09.2013 in the newspaper Annexure P-2, wherein at serial No.49, the location was shown as Baramkela, Lodhia, Kanchanpur, Janakpur, which was in the Tehsil Baramkela and the Gram Panchayat was shown as Baramkela, Lodhia, Kanchanpur and Janakpur. It is stated that the petitioner has offered his candidature on the basis of the land which was in the village Kharwani, which was within the Nagar Panchayat, Baramkela. He would further submit that the rejection of the candidature on the ground that the location which was advertised is other than for which it was meant for is completely wrong. He would further submit that the Indian Oil Corporation on illegal grounds has rejected the candidature of the petitioner. He would further submit that this Court has directed the State to file an affidavit as to where the village Kharwani falls. It is stated that since as per the notification dated 3rd of September, 2008 it would show that the boundaries of Nagar Panchayat, Baramkela would be the existing revenue village, consequently, after the notification having been made by the State, the village Kharwani would be included within the Nagar Panchayat Baramkela. It is further submitted that such location cannot be given a separate entity. He would further submit that the rejection of the candidature of the petitioner,

therefore, is completely illegal, which needs to be set aside.

4. Per contra, Shri Anand Shukla, learned counsel for respondents No.1 & 2 would submit that since the advertisement was meant for rural area, consequently, particular locations were identified and only four locations were advertised. Since the land of the petitioner was not within the aforesaid location, therefore, the rejection of the candidature of the petitioner's claim is completely legal and no illegality can be attributed. He placed his reliance in the case of similar like nature bearing WPC No.901/2011 decided by this Court on 16th of August, 2011 and would submit that in the like manner, the Court has evaluated the difference of Nagar Panchayat and a particular location.
5. I have heard learned counsel for the parties and perused the documents.
6. Annexure P-2 is the advertisement made under the caption to distribute the LPG under the Rajiv Gandhi Gramin LPG Vitrak, wherein at serial No.49 the location name has been shown as (i) Baramkela (ii) Lodhia (iii) Kanchanpur (iv) Janakpur. Further location the Nagar/Gram Panchayat has been shown as Baramkela, Lodhia, Kanchanpur and Janakpur and tehsil has been described as Baramkela, district Raigarh. It is not in dispute that the land of the petitioner is situated at village Kharwani for which he offered his candidature. The affidavit filed on behalf of the State along with the gazette notification dated 3rd September, 2008 would show that the State government in exercise of power conferred by clause (b) of sub-section (1) of Section 5 of the Chhattisgarh Municipalities Act, 1961 constituted Nagar Panchayat Baramkela at District Raigarh. In schedule II of the said notification the Baramkela boundaries has been defined which reads as under :-

“The boundaries of the Nagar Panchayat Baramkela is as below:-

The Boundaries of Nagar Panchayat Baramkela shall be the boundaries of existing revenue village and Gram Panchayat Baramkela.

Provided that the present elected Gram Panchayat at Baramkela shall continue to function as Nagar Panchayat for the purpose of Chhattisgarh Municipalities Act, 1961 under the provisions of section 5 (1) (b) of the said Act till the newly elected Nagar Panchayat of Baramkela is constituted.

छत्तीसगढ़ के राज्यपाल के नाम से तथा आदेशानुसार,

जे. मिंज, संयुक्त सचिव”

7. The reading of the said schedule would show that the boundaries of Nagar Panchayat Baramkela would be the boundaries of existing revenue village and Gram Panchayat Baramkela. When this notification and submission are tested as against the advertisement, it shows that the advertisement was made for a particular location that of Baramkela and other three places. The submission of the petitioner that village Kharwani was included by the notification within Barmakela, therefore, the rejection of candidature on the ground that he do not hold the land at Baramkela cannot be appreciated. In the opinion of this Court, the advertisement would show that it was meant for rural area and particular locations were advertised, which confined only Baramkela apart from that three other places were named. Even if it is presumed that village Kharwani was enveloped within the Gram Panchayat Baramkela, considering the rural location for which the advertisement was made, it was confined to Baramkela location only. Consequently, such location cannot be extended by interpretation as the distribution of LPG should be closer and nearer to the publication for which it is advertised. The Nagar Panchayat, Baramkela would have other villages too and when the advertisement was made only for four villages, then the other village which falls out of the advertisement, cannot be treated to be the part of

Nagar Panchayat Baramkela qua the advertisement.

8. It is for the respondent corporation to decide the location of a particular place. If the petitioner did not have the land at village Baramkela location itself, the land at village Kharwani cannot be connected by the advertisement for consideration of the right of the petitioner. The dispute raised further involves the disputed question of facts too. Therefore, the likewise issue which has been decided by this Court in WPC No.901/2011 on 16th of August, 2011, I am also inclined to follow the ratio laid down in such case to hold that village Kharwani may be included for administrative purposes within the Nagar Panchayat of Baramkela, but such location cannot be extended to read in between the line of the advertisement that Kharwani would include Baramkela. Accordingly, I do not find that any relief can be granted to the petitioner. The likewise proposition is supported by the ratio laid down by the Supreme Court in the matter of **Ankur Gupta V. Union of India (2012 SCC OnLine Raj 723)**, **Satyaranjan Mallick Vs. Indian Oil Corporation Ltd. And others (decided by the Orrisa High Court in W.A. No.145 of 2014 on 30.04.2015)** and **Manish Kumar Nagar Vs. Union of India & ors. (decided by the Rajasthan High Court in Civil Writ Petition No.1258 of 2012 on 18.04.2012)**. The ratio of these cases also apply to the facts of this case as the object behind the requirement of suitable particular place is to provide better facility to local residents and if in a given city too the city is extended and the advertisement is made for a particular location then particular location is to be given the importance. When the land offered by the petitioner was not at the location advertised by the respondents at specified locations to cater the needs of the general public and when the location is specific, by deeming provision, the area cannot be extended from the

earmarked place. In view of this, I do not find any illegality in decision making process of the respondents so as to entertain this writ petition.

9. Consequently, the petition being devoid of merits is liable to be and is hereby dismissed.

Sd/-

Goutam Bhaduri
Judge

Ashu