

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****WA No. 361 of 2016**

- Jainendra Kumar Baghel S/o K. R. Baghel, Aged About 47 Years
R/o 77, Krishna Nagar Colony, Tilda, District Raipur, Chhattisgarh

---- Petitioner**Versus**

1. Indian Oil Corporation Ltd. Through Senior Divisional Retail
Sales Manager, Raipur Division, Indian Oil Bhawan, Rajiv Gandhi
Marg, Vip Road, Telibandha, Raipur, Chhattisgarh
2. Wajir Singh, S/o Omprakash Jat, R/o Village Jota, Tahsil Tilda,
District Raipur, Chhattisgarh
3. Manoj Kumar Verma, S/o Pram Lal Verma, R/o Village Jota, Post
Tandwa, District Raipur, Chhattisgarh

---- Respondent

For Petitioner	Mr. Bharat Rajput, Advocate
For Respondent No.1	Mr. Anand Shukla, Advocate
For Respondent No.2	Mr. Parag Kotecha, Advocate

DB.:Hon'ble Mr. Prashant Kumar Mishra, Ag. C.J. &**Hon'ble Mr. Parth Prateem Sahu, J.****Order On Board By****Prashant Kumar Mishra, Ag. C.J.****27/3/2019**

1. Heard
2. This intra Court appeal would challenge the order passed by the
writ Court dismissing the appellant/petitioner's Writ
Application, in which, challenge was thrown to the merit

list/select list prepared by respondent No.1-Oil Company awarding highest marks to respondent No.2 amongst 3 candidates including the appellant for selection of Kisan Sewa Kendra Retail Outlet for the location Jota, Tehsil Tilda, Raipur, District Raipur.

3. It is argued by learned counsel for the appellant that the writ Court having found that the appellant/petitioner should have been awarded 4 more marks, the entire selection process should have been set-aside because the evaluation process was not proper. Reference is made to the judgment rendered by the Supreme Court in the matter of **Senior Law Manager, Indian Oil Corporation Ltd. And another Vs. Guru Shakti Singh and another, AIR 2011 SC 1207**. Further reference is made on the law laid down by the Punjab and Haryana High Court in the matter of **Dalit Verg Jan Kalyan Samiti and another Vs. Hindustan Petroleum Corporation Ltd., Chandigarh and others, AIR 1997 Punjab and Haryana 147**, to argue that when the residence certificate is found illegal, the selection should be cancelled.
4. We have heard learned counsel for the parties at length and perused the order passed by the writ Court and the record of the writ petition.
5. We find that the writ Court has meticulously examined the entire submissions of learned counsel for the appellant/petitioner when he argued that on several counts, the

appellant has been awarded less marks. The argument was confined to heads (i) source of income; (ii) experience; (iii) business acumen (individual/non-individual – leading question on project report and proven ability/acumen in earlier/existing business) and; (iv) movable assets.

6. Upon in-depth examination, the Single Judge has found that the appellant should have been allowed 4 more marks for movable assets. However, on the other three heads, it has been found that the appellant having failed to produce the income tax return for the year 2009-10, award of (0) marks under the head “source of income” is fully justified. Similarly, award of 3 out of 4 marks under the head “experience” is also found valid because the appellant had submitted proof of experience of running Rice Mill, whereas, the selected candidate had submitted the proof of experience of having operated a petrol pump. The third head “business acumen” has been sub-divided into individual and non-individual and thereafter, “leading question on project report” and “proven ability/acumen in earlier/existing business”. On this count, the appellant has been awarded 2 out of 5 marks, which has not been interfered by the writ Court for the reason that the entire head involves subjectivity of the Selection Committee, as one of the components under this head is personal interview.
7. Having further examined the documents, we see no ground to interfere with the impugned order because subjective satisfaction of the Selection Committee based on personal

interview cannot be interfered under writ jurisdiction. Similarly, for award of marks under the heads "experience" and "source of income" also, the appellant is not entitled to be awarded any more marks because he has not submitted income tax return for the relevant financial year as desired in the Advertisement and his experience is running of a Rice Mill opposite to the experience of the selected candidate, who had worked in a petrol pump.

8. The proposition laid down in the matter of **Senior Law Manager, Indian Oil Corporation Ltd.** (supra) would apply when a certificate is found to be illegal but in the present case, the certificate of residence submitted by the selected candidate has not been found to be illegal nor the appellant has demonstrated before us as to under which provisions of law, the certificate can be held to be illegal. It has been found that the certificate produced by the selected candidate was submitted as per the format prescribed in "Form C "of the Advertisement.
9. Nothing has been brought to our notice as to how that certificate has been obtained by respondent No.2 in contravention of any law or guidelines of the State Government.
10. The writ appeal has no substance. It fails and is accordingly dismissed.

Sd/-

(Prashant Kumar Mishra)

Acting Chief Justice

Sd/-

(Parth Prateem Sahu)

Judge