

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1470 of 2019

- Atul Subodh S/o Lakhan Subodh Aged About 33 Years R/o LIG - 165, Housing Board, Colony, Deverikhurd, Bilaspur, District Bilaspur Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Chief Secretary, Mantralaya, Naya Raipur Chhattisgarh
2. Secretary, Department Of Revenue And Disaster Management, Mantralaya, Naya Raipur Chhattisgarh
3. Bharat Petroleum Corporation Ltd. Through Its Managing Director, Bharat Bhawan, Bharat Petroleum Head Quarters, Ballard Estate, Mumbai, Maharashtra
4. Head Of Territory Office (Retail) Bharat Petroleum Corporation Ltd. 1st Floor, Shahid Veer Narayan Complex, Opposite Collectorate, Near Nagar Ghadi Chowk, Raipur, District Raipur Chhattisgarh
5. Commissioner Bilaspur Division, Bilaspur, District Bilaspur Chhattisgarh
6. Collector Korba, District Korba Chhattisgarh

---- Respondents

WPC No. 1475 of 2019

- Amit Subodh S/o Lakhan Subodh Aged About 40 Years R/o LIG-165, Housing Board Colony, Deverikhurd, Bilaspur, District- Bilaspur, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Through Chief Secretary, Mantralaya, Naya Raipur, Chhattisgarh
2. Secretary Department Of Revenue And Disaster Management, Mantralaya, Naya Raipur, Chhattisgarh
3. Bharat Petroleum Corporation Ltd. Through Its Managing Director, Bharat Bhawan, Bharat Petroleum Head Quarters, Ballard Estate, Mumbai, Maharashtra
4. Head Of Territory Office (Retail) Bharat Petroleum Corporation Ltd. 1st Floor, Shahid Veer Narayan Complex, Opposite Collectorate, Near Nagar Ghadi Chowk, Raipur, District- Raipur, Chhattisgarh

5. Commissioner Bilaspur, Division, Bilaspur, District- Bilaspur, Chhattisgarh
6. Collector Korba, District- Korba, Chhattisgarh

---- Respondents

For Petitioners	:	Ms. Rajni Soren, Advocate
For Respondents/State	:	Shri R.S. Baghel, Dy. GA
For Respondents-BPCL	:	Shri Sourabh Sharma, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

15/05/2019

1. Heard.
2. Both these petitions are heard together as similar like nature of issue is involved.
3. It is contended on behalf of the petitioners that the petitioners had applied for retail petrol pump outlet pursuant to the advertisement dated 14.02.2018. It is contended that the petitioners received the response from the respondent oil company on 17.01.2019 (Annexure P-3) and the proposed site in petition bearing WPC No.1470 of 2019 was between Jain Mandir Chowk and ITI Chowk on either side of the road, Korba and the proposed site in second case i.e. WPC No.1475 of 2019 was between Ghantaghar Chowk to Shastri Chowk on either side of the road, Korba. It is contended that on the proposed sites, the area for opening of retail outlet which has been advertised, no private land exist. It is further stated that in respect of Jain Mandir Chowk and ITI Chowk the proposed land has been leased out to the Chhattisgarh State Electricity Board (CSEB), whereas the proposed site land of Ghantaghar Chowk to Shastri Chowk, the

entire government land exists. It is further contended first part of site of land at Jain Mandir Chowk and ITI Chowk the said land is held by the CSEB on lease and they have expressed that they do not have any objection if further lease is given to some third party i.e. express communication was made that they do not have any objection if the lease is further granted to the petitioner namely Atul Subodh an application was submitted before the Collector Korba. The said application to the Collector Korba was for grant of lease. Further in respect of the proposed site of Ghantaghar Chowk to Shastri Chowk similar like nature of application was made to the Collector for grant of lease of land. It is stated that the Collector by communication dated 09.04.2019 replied to the petitioner Atul Subodh that in view of an circular of 16.01.2017 the government land can be granted for opening of retail outlet only when the application is made by the oil company to open an outlet. It is stated that because of this the petitioner could not get the lease of any land and the oil company may be directed to apply for lease of land and make available the land to the petitioner so that petrol pump outlet in the said site can be applied. It is further contended that the petitioner has already applied for grant of lease, which may also be considered by the State.

4. Per contra, learned counsel for the respondents No.3 & 4 would submit that the location of the plot at Korba to open the retail outlet was in between the area of Jain Mandir Chowk and ITI Chowk on either side of the road, Korba. The second location was in respect of between Ghantaghar Chowk to Shastri Chowk on either side of the road, Korba. Learned counsel referred to the terms of the offer and would submit that the brochure wherein terms for apply for petrol pump outlet were categorically mentioned do not say so that the

respondent oil company has the obligation to make available the site of land. The reference was made to the eligibility criteria for individual applicants and it is submitted that three categories have been stated in the policy to grant. It is stated that if Group 1 & Group 2 applicants are not available then only the Group 3 applicants would be considered along with Group 3 category and the petitioner case would fall under Group 3 category. It is stated that at any case, the demand of petitioner can only be considered if Group 1 & 2 category are not available. It is stated that the process of evaluation of applicants is undergoing, therefore, on the basis of some circular the company cannot be compelled to apply for lease to the State to make available petrol pump site to any applicant.

5. Learned State counsel would submit that the application of the petitioners have already been rejected and therefore, the petitioner is not entitled for the lease.
6. I have heard learned counsel for the parties and perused the documents and record.
7. It is not in dispute that initial offer pursuant to the advertisement dated 14.02.2018 was in respect of two sites at Korba. The applications were invited by the oil company to open an outlet. Pursuant thereto communication dated 17.01.2019 was received by the petitioner wherein they were asked to offer the land along with other requirements. The brochure which is placed on record the clause 4 eligibility criteria has been shown and sub-clause (v) of it speaks about the Land (Applicable to all categories) which reads as under :-

“(v) Land (Applicable to all categories):

The applicants would be classified into three groups as mentioned below based on the land offered or land not offered by them in the application form:-

Group 1: Applicants having suitable piece of land in the advertised location/area either by way of ownership / long term lease for a period of minimum 19 years 11 months or as advertised by the OMC.

Group 2: Applicants having Firm Offer for a suitable piece of land for purchase or long term lease for a period of minimum 19 years 11 months or as advertised by the OMC.

Group 3: Applicants who have not offered land in the application.

Applications under Group 3 would be processed/advised to offer land only in case no eligible applicant is found or no applicant get selected under Group 1 & 2.

In case land offered by all the applicants under Group 1 & Group 2 is found not suitable/not meeting requirements, then these applicant/s under Group 1 & Group 2 along with applicants under Group 3 (who did not offer land along with application) would be advised by the OMCs to provide suitable land in the advertised location / stretch, within a period of 3 months from the date of issuance of intimation letter to them through SMS/e-mail. In case the applicant fails to provide suitable land within the prescribed period or the land provided is found not meeting the laid down criteria, the application would be rejected.”

8. Reading of the aforesaid condition would show that Group 1 person would be those who have piece of land in the advertised location/area either by way of ownership/long term lease for a period of minimum 19 years 11 months. Group 2 applicants would be those who are having firm offer for a suitable piece of land for purchase or long term lease. Group 3 applicants are those who have not offered land in the application. Admittedly, the petitioners do not have any land which was in the offered location. The requirement further shows that the applications under Group 3 would be processed/advised to offer land only in case no eligible applicant is found or no applicant get selected under Group 1 & 2.
9. The documents which is filed along with the petitions show that in respect of the site in between Jain Mandir Chowk and ITI Chowk the open land which situates as has been stated is in hold of CSEB, who is a lessee. The another part of

land in between Ghantaghar Chowk to Shastri Chowk the proposed land which is offered appears to be a government land. Therefore, in any case, the land for which applications were preferred were not in hold of the petitioners. The offer shows that if Group 1 & 2 applications are not available then only group 3 applications would be considered wherein the petitioners fall.

10. Since one land is under the lease of CSEB and another appears to be a government land in respect of the location of the site, the direction to the oil company to apply for the lease of the said land to make a land available to the petitioners cannot be allowed. Issuance of such writ appears to be completely misconceived. On the basis of certain internal circulars of the State, the oil company cannot be compelled to apply for lease of a particular land against the offer in brochure which was already floated for all the prospective applicant to change the rule of game after it started. It is also obvious that the petitioners have participated in selection process knowing full well the criteria, therefore, the condition which is existing in the brochure shall also be binding on them equally. In a result, I do not find any merit in the petitions to entertain the same. Accordingly, both the petitions are dismissed.

Sd/-

Goutam Bhaduri
Judge

Ashu