

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Appeal No. 371 of 2019**

*{Arising out of order dated 22.10.2018 passed by the learned Single Judge in Writ
Petition (C) No. 2872 of 2018}*

- Abhishek Agrawal, S/o Rajendra Prasad Agrawal, aged about 30 years, R/o Behind Champa Railway Station, Champa, District Janjgir-Champa (C.G.)

---- Appellant**Versus**

1. Hindustan Petroleum Corporation Limited, A Government of India Enterprises, through: its General Manager, 17 Jamshedji Tata Road, Mumbai, Maharashtra.
2. Senior Regional Manager, Hindustan Petroleum Corporation Limited, Madina Manjil, 2nd Floor, Medical College Road, Raipur, District Raipur (C.G.)
3. General Manager, Hindustan Petroleum Corporation Limited, 771, Anandpur, Opposite EM Bypass, Calcutta.
4. Sub-Divisional Officer, Public Works Department, Sakti, Division Sakti, District Janjgir-Champa (C.G.)
5. Chief Vigilance Officer, Hindustan Petroleum Corporation Limited, Petroleum House, 17, J. Tata Road, Church Gate, Mumbai, Maharashtra.
6. Rishabh Agrawal, S/o Vinod Kumar Agrawal, aged about 24 years, R/o Ward No. 07, Near Ram Mandir, Hatri Road, Sakti, District Janjgir-Champa (C.G.)
7. Vinod Kumar Agrawal, S/o Late Shankarlal Agrawal, aged about 24 years, R/o Ward No. 07, Near Ram Mandir, Hatri Road, Sakti, District Janjgir-Champa (C.G.)

---- Respondents

For Appellant	:	Shri Manoj Paranjpe and Shri Prasoon Agrawal, Advocates.
For Respondent/HPCL	:	Shri Ali Asgar, Advocate.
For Respondent/State	:	Shri Sudeep Verma, Deputy Government Advocate.
For Respondent No. 6	:	Shri Prateek Sharma, Advcoate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice

Hon'ble Shri Justice Parth Prateem Sahu, Judge

Judgment on Board

Per P. R. Ramachandra Menon, Chief Justice

14.10.2019

1. I.A. No. 1 of 2019, application for condonation of delay of 40 days in filing the writ appeal, is allowed for the reason stated therein.
2. Interference declined by the learned Single Judge with regard to the challenge raised as to the granting of Petroleum dealership to the 6th Respondent is put to challenge in this appeal.
3. Heard Shri Manoj Paranjpe and Shri Prasoon Agrawal, the learned counsel for the Appellant, Shri Ali Asgar, the learned counsel for Respondents No. 1 to 3 and 5, Shri Sudeep Verma, the learned counsel representing the State / Respondent No. 4 and Shri Prateek Sharma, the learned counsel appearing for Respondent No. 6.
4. The factual matrix reveals that a notification was issued by the Respondent-Petroleum Corporation for identifying the retail dealer in the advertised area i.e. Kanchanpur, Bandhwa Talab and Sakreli Road, Tahsil Sakti, District Janjgir-Champa (C.G.). It is stated that the Appellant satisfies all the requirements having the requisite extent of land and accordingly, particulars of the property were given making necessary application in response to the notification dated 30.03.2015. An alternate land in Khasra No. 14/2 admeasuring 30 decimal was

also offered by the Appellant so as to have his credentials to be considered. The grievance of the Appellant is that, the application put forth by the Petitioner/Appellant came to be rejected, stating that the land offered by the Petitioner/Appellant is not in the notified area and further that it is having only a lesser extent than the notified extent for starting the dealership. The dealership was allotted to the 6th Respondent, which, according to the Petitioner/Appellant could not have been done, as the land offered by him is situated on the side of State Highway. By virtue of the very nature of the dealership, being a 'Kisan Sewa Kendra', it cannot be permitted to be opened on the side of State or National Highway or in urban areas. This made the Petitioner to approach this Court by filing the writ petition with the following prayers:

“1 That, this Hon'ble Court may kindly be pleased to writ/writs, order/orders, direction/directions quashing the allotment made to the respondent No. 6 for KSK dealership at Kanchanpur-Bandhwa Talab-Sakreli Road, Tahsil Sakti, District Janjgir-Champa being contrary to the guidelines of the Oil Company. They may further be directed that till the decision on the said complaints, the further proceedings for allotment or rural retail outlets for the advertised area i.e. Kanchanpur, Bandhwa Talab and Sakreli Road, Tahsil Sakti, District Janjgir-Champa shall not be finalized.

2 That, this Hon'ble Court may kindly be pleased to grant any other relief(s), which is deemed fit and proper in the aforesaid facts and circumstances of the case.”

5. The Respondent-Corporation contented that there was absolutely no merit in the writ petition, insofar as the prayer was mainly to cancel the dealership allotted to the 6th Respondent and that no individual right of the writ Petitioner was sought to be asserted or established. It was also brought to the notice of the Court that the advertisement for dealership was issued way back on 12.10.2014 and at that point of time, the road in question was never a State Highway, which came to be declared as State Highway only later, as per notification dated 01.04.2015. This being the position, there was absolutely no bar in proceeding with further steps and considering the suitability of the land

offered by the 6th Respondent, the same was considered and the dealership was allotted to the said Respondent.

6. The rival contentions were subjected to meticulous analysis by the learned Single Judge. The observations as to the finding and reasoning are discernible from paragraphs 3 and 4, which are extracted below:

“3. Perusal of the writ petition alongwith annexures would demonstrate that rising the above mentioned plea the petitioner had moved a representation before the Hindustan Petroleum Corporation Limited (for short 'the HPCL') which has been rejected vide communication dated 17.07.2018 (Annexure P/1). In the said communication, it is categorically stated that as on the date of issuance of advertisement i.e. on 14.10.2014 the subject area was not notified as State Highway. The said notification declaring part of the area of State Highway was issued by the State Government on 30.03.2015, copy of which has been filed by the petitioner himself as Annexure P/9. It has also been stated that the advertised place falls within the jurisdiction of Gram Panchayat, Borda, and is not within the urban area, therefore, petitioner's contention to the contrary is not acceptable.

4. Having perused the pleadings and materials it does not appear that the reason assigned by the HPCL for rejecting the representation suffers from any perversity. When the subject place was not notified as State Highway on the date of advertisement, any subsequent notification would not effect the validity of the advertisement. It is also to notice that the petitioner himself was an applicant, but is not praying any relief for his own benefit. A person who himself was not qualified for obtaining retail outlet dealership may not later on turn around and assail the very advertisement under which he had earlier applied but was not found eligible.”

7. It has been specifically adverted to the writ Petitioner was not having the land with the requisite measurement and that the same was not located in the area notified. The application put forth by the Petitioner was rejected by the Respondent-Corporation and the said proceedings were never sought to be challenged by amending the writ petition or by way of other appropriate means. The grievance was only with regard to the allocation of the dealership to the 6th

Respondent, more so with reference to the nature of the road lying there, which was subsequently declared as a State Highway, as per the notification dated 01.04.2015. It was in the said circumstances, that the interference was declined and the writ petition was dismissed.

8. The learned counsel for the Appellant submits that the observation and the justification given to the effect that the declaration of the Highway as a State Highway was only subsequent to the date of advertisement, is not of any significance, in view of the nature of the dealership i.e. 'Kisan Sewa Kendra'. This being the position, interference is necessary and the allotment given to the 6th Respondent has to be cancelled. We can't accede to the said proposition, insofar as the writ petition filed by the Appellant herein was not a public interest litigation at all. It was with reference to the individual rights of the writ Petitioner, who had also participated in the proceedings, pursuant to the very same advertisement. It was observed by the learned Single Judge that, it was after losing the game, that the Petitioner took a 'u-turn' and sought to challenge the notification with reference to the proximity to the State Highway, which hence was not liable to be entertained.
9. We find absolutely no reason to interdict the finding and reasoning given by the learned Single Judge. No tenable ground is raised or substantiated so as to invoke our appellate jurisdiction.
10. The appeal fails. It is dismissed accordingly.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge