

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 2511 of 2019

Lekha Ajgalley, Aged About 24 Years D/o Shri R. N. Ajgalley R/o F-9, Saket Colony Jagdalpur, District Bastar, Chhattisgarh.

---- Petitioner

Versus

1. Hindustan Petroleum Corporation Limited (A Government Of India Enterprises) Through Its General Manager, Registered Office 17, Jamshedji Tata Road, Mumbai.

2. Senior Regional Manager/ The Head Of Regional Office Hindustan Petroleum Corporation Limited, Madina Manzil, 2nd Floor, Medical College Road, Raipur, Chhattisgarh.

-- Respondents

For petitioner- Shri Anand Dadariya, Advocate.
For respondents – Shri Ali Asgar, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

24/07/2019

Heard.

1. It is contended that pursuant to advertisement made on 14/12/2018 the applicant filed an application for dealership of retail outlet dealership at village Bhilai on Arang-Kurud on State Highway No.20. The petitioner was selected as successful candidate for selection of RO dealership at the subject location by Annexure P-5 which was informed on 14/01/2019 and thereafter it was informed that the dealership was subject to compliance of terms and condition and other condition of the corporation in this regard. The petitioner contends that with respect to the land evaluation he submitted document of sale deed and the sale deed would show that at eastern side Arang-Rajim road is situated, for which advertisement was made. It is stated that thereafter communication dated 6th June, 2019 has been received and no reasons have been given and by non-speaking order his candidature for particular group found to be ineligible. Learned

counsel submits that the said order is against the complete guideline laid down by the Supreme Court in the case of **Kranti Associates Private Limited & Anr. Vs. Masood Ahmed Khan & ors** reported in **(2010) 9 SCC 496** which speaks that even for administrative action arbitrary order cannot be sustained. He therefore submits that respondents may be directed to pass speaking order with reason as to why petitioner's candidature for particular group has not been accepted.

2. Perused the documents. Main grievance of the petitioner is against the order dated 6th June, 2019. Shri Ali Asgar, Advocate appears for respondents on advance copy and would submit that the candidature of the petitioner has not been rejected but he has been shifted from group-1 to group-3 since the land offered by petitioner was not in conformity to the guideline. The said submission though have been made but do not find place in Annexure P-1. The supreme court in case of **Kranti Associates Private Limited & Anr. Vs. Masood Ahmed Khan & ors** (supra) at para 47 has laid down certain guidelines for administrative act and quasi judicial authority which are re-produced hereunder:-

“47. Summarising the above discussion, this Court holds:

(a) In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b) A quasi-judicial authority must record reasons in support of its conclusions.

(c) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e) Reasons reassure that discretion has been exercised by the decision maker on relevant grounds and by disregarding extraneous considerations.

(f) Reasons have virtually become as indispensable a component of

a decision making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior Courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a Judge or a quasi-judicial authority is not candid enough about his/her decision making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is not to be equated with a valid decision making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the judges and decision makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in Defence of Judicial Candor (1987) 100 Harvard Law Review 731-737).

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija v. Spain (1994) 19 EHRR 553, at 562 para 29 and Anya vs. University of Oxford, 2001 EWCA Civ 405 (CA), wherein the Court referred to [Article 6](#) of European Convention of Human Rights which requires, "adequate and intelligent reasons must be given for judicial decisions".

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "due process".

3. In view of such factual situation and ratio laid down by court supra, it is directed that the petitioner if makes a fresh representation to the respondent with all the land documents, respondent shall thereafter decide the same by a speaking order so that the reasons of rejection is made known to the petitioner. The said exercise be carried out within a period of 30 days after representation is filed within a period of seven days from today. It is made clear that till such decision is arrived at finalization

of the dealership shall not be given effect to.

4. With such observation, the petition stands disposed.

Sd/-

(Goutam Bhaduri)

JUDGE

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