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**HIGH COURT OF CHHATTISGARH, BILASPUR****WA No. 386 of 2019**

(Arising out of order dated 15.5.2019 passed by learned Single Judge  
in WPC Nos.1470/19 & 1475/19)

**Judgment Reserved on 18.9.2019****Judgment Delivered on 25-9-2019**

1. Amit Subodh S/o Lakhan Subodh, aged about 33 years, R/o LIG-165, Housing Board Colony, Deverikhurd, Bilaspur, Distt. Bilaspur (CG)

**---- Appellant****Versus**

1. State of Chhattisgarh, Through: Chief Secretary, Mantralaya, Naya Raipur (CG)
2. Secretary, Department of Revenue and Disaster Management, Mantralaya, Naya Raipur (CG)
3. Bharat Petroleum Corporation Ltd., through: its Managing Director, Bharat Bhawan, Bharat Petroleum Head Quarters, Ballard Estate, Mumbai (Maharashtra).
4. Head of Territory Officer (Retail), Bharat Petroleum Corporation Ltd., 1<sup>st</sup> Floor, Shahid Veer Narayan Complex, Opposite Collectorate, Near Nagar Ghadi Chowk, Raipur (CG)
5. Commissioner Bilaspur Division, Bilaspur Distt Bilaspur (CG)
6. Collector, Korba, Distt. Korba (CG)

**---- Respondents****WA No. 394 of 2019**

1. Atul Subodh S/o Lakhan Subodh, aged about 33 years, R/o LIG-165, Housing Board Colony, Deverikhurd, Bilaspur, Distt. Bilaspur (CG)

**---- Appellant****Versus**

1. State of Chhattisgarh, Through: Chief Secretary, Mantralaya, Naya Raipur (CG)
2. Secretary, Department of Revenue and Disaster Management, Mantralaya, Naya Raipur (CG)
3. Bharat Petroleum Corporation Ltd., through: its Managing Director, Bharat Bhawan, Bharat Petroleum Head Quarters, Ballard Estate, Mumbai (Maharashtra).
4. Head of Territory Officer (Retail), Bharat Petroleum Corporation Ltd., 1<sup>st</sup> Floor, Shahid Veer Narayan Complex, Opposite Collectorate, Near Nagar Ghadi Chowk, Raipur (CG)
5. Commissioner, Bilaspur Division, Bilaspur Distt Bilaspur (CG)
6. Collector, Korba, Distt. Korba (CG)

**---- Respondents**


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|--------------------------------|---|----------------------------------------------------|
| For Appellants                 | : | Mrs. Rajni Soren, Advocate                         |
| For Respondent No.1, 2, 5 & 6: |   | Mr. Siddharth Dubey, Deputy<br>Government Advocate |
| For Respondent No.3 & 4        | : | Mr. Saurabh Sharma, Advocate                       |

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**Hon'ble Shri P. R. Ramchandra Menon, CJ**  
**Hon'ble Shri Parth Prateem Sahu, J**

**C A V Order****Parth Prateem Sahu, J**

1. As identical issue is involved in the above two writ appeals, the same are being disposed off by this common order.
2. Appellants have questioned the legality & propriety of the order dated 15.5.2019 passed by the learned Singe Judge dismissing writ petitions filed by the appellants herein.
3. Facts of the case lie within a very narrow compass. Respondent No.2- Bharat Petroleum Corporation Ltd. invited applications from the eligible candidates for grant of dealership of petroleum retail outlet for two locations in the city of Korba i.e. on either side of road in between "Jain Temple Chowk & ITI Chowk" (subject matter of WA No.394/19); and on either side of road in between "Ghanthar Chowk & Shastri Chowk" (subject matter of WA No.386/19). In the said advertisement, respondent Corporation categorized the candidates in three groups i.e. Group-1, 2 & 3. Group-1 relates to the candidates having suitable piece of land in the advertised location/area. Group-2 relates to the candidates having firm offer for a suitable piece of

land for purchase or long term lease. Group-3 relates to the candidates who have not offered land in their application.

4. In response to said advertisement, the appellants, who fall within Group-III, submitted their online application for consideration of their candidature for grant of retail outlet dealership. The office of respondent No.4 vide email dated 17.1.2019 called upon the appellants to provide particulars of suitable lands in their possession in the advertised area for establishment of retail outlets within a period three months from the date of said letter. On receipt of aforesaid letter, on 25.3.2019 appellants submitted applications before respondent No.6 stating that government lands bearing Khasra No.35, situated at PH No.13, village Rampur, Korba and Khasra No.245/A, situated at PH No.9, which have already been leased-out to the Chhattisgarh State Electricity Board, are presently lying vacant and appellants have been informed by Chhattisgarh State Electricity Board, that the Board would have no objection if the said lands are transferred by the State Government and hence requested for grant of lease of said lands for a period of 19 years 11 months for establishment of petrol-pump.
5. On making such applications, the appellants have been informed vide letter dated 9.4.2019 that government land can be given on lease to concerned oil company only. Appellants thereafter wrote letter dated 8.4.2019 to the office of respondent No.4 apprising him of the procedure of grant of government land

on lease and also requested for extension of three months further time. In pursuance of letter of appellants, though respondent Corporation extended time upto 17.5.2019, but not taken any steps for getting the government lands on lease, which made appellants to approach the High Court by filing separate writ petitions against oil company as well as State praying for a direction against respondent authorities to complete the procedure of allotment of government lands on lease for establishment of petrol pump and/or to allot suitable lands as per established criteria in between the proposed locations in the city of Korba enabling the appellants to establish petrol-pumps thereon.

6. After hearing both the sides, learned Single Judge dismissed both the writ petitions by observing that since the land is already under lease with CSEB, no such direction/order can be passed for making the land available to appellants herein. Learned Single Judge further held that respondent Corporation cannot be compelled to apply for grant of lease of a particular land against the offer in the advertisement which was already floated for all the prospective applicant to change the rule of game after it started.
7. Learned counsel for appellants would submit that respondents No.3 & 4 while issuing advertisement for appointment of dealer for retail outlet dealership have divided the candidates into three groups i.e. Group I, Group II & Group III, for the purpose of

allotting petroleum outlet dealership. Appellants fall under Group III and therefore in absence of any candidate belonging to Group I & II, appellants should have been considered for allotment of dealership and as per circular issued by the State Government, the respondent Corporation ought to have applied before the competent authority for grant of land on lease. She further submits that as respondent No.6 refused to grant government land on lease to appellants for the purpose of establishing petroleum retail outlet on the ground that as per circular of the State Government dated 16.1.2017, lease can be granted in favour of oil company concerned only, therefore, respondent No.3 & 4 ought to have made available the land to the appellants for establishment of petrol-pump on the location as advertised by them.

8. Learned counsel appearing for the State supported the impugned order.
9. Shri Sharma, learned counsel representing respondents No.3 & 4 would submit that it is for the appellants to have offered land for establishment of petroleum retail outlet. As per advertisement, there is no clause for making the land available by the company and therefore after publication of advertisement, no new action can be taken which is not part of the advertisement. In advertisement there is provision for grant of additional time to Group III persons to offer land subsequently and this benefit is also available to Group I & II persons if their

land is not found suitable. The Company looking to the status of appellants extended the period for offering land.

10. We have heard learned counsel for the parties and perused the record.

11. Clause-5 of the Brochure 'Selection of Dealers for Regular & Rural Retail Outlet' defines the word 'land' and relevant portion of this clause is extracted herein below for ready reference;-

**“(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.....”

12. From the heading of this clause it is amply clear that it is applicable to all categories. A bare reading of above quoted clause (v) of brochure indicates that candidates were categorized in three groups, firstly of the candidates having suitable piece of land in advertised area; secondly of candidates having firm offer for a suitable piece of land for purchase or long term lease; and thirdly, of the candidates who have not offered land in the application. It further stipulates that if the land offered by candidates falling under Group 1 & Group II is not found suitable / not meeting requirements for grant of retail outlet dealership, then those candidates along with candidates falling under Group-III will be asked to offer suitable land in the advertised location within a period of three months from the date of intimation to them in this regard, failing which the application would be rejected. Meaning thereby, availability of suitable land is a condition precedent for all groups of candidates and if eligible applicant fails to provide suitable land, his/her application would be rejected. However, Clause (v) of the brochure, by any means, does not state that respondent Corporation shall provide suitable land to eligible candidate for establishment of retail outlet. In other words, we do not find any clause or provision either in the advertisement / brochure to the effect that there will be an obligation on the part of the company inviting applications for appointment of dealer of petroleum retail

outlet to provide suitable land for establishment of petrol-pump. For this reason, the argument raised by learned counsel for the appellants is not sustainable and is hereby repelled.

13. Other aspect of the case is that respondent State authorities cannot be directed in a writ petition to grant lease of the government land or a land which has already been leased out to the CSEB, to appellants herein. Even the respondent Corporation cannot be directed to apply for grant of a particular land on lease only for the reason that applications of appellants for grant of dealership of retail out have been processed by it. It is for the company to appoint dealers according to the terms & conditions as prescribed by it.

14. In view of above, we do not find any illegality or infirmity in the order impugned passed by the learned Single Judge. Both writ appeals being devoid of substance are liable to be dismissed and the same are hereby dismissed.

Sd/-  
(PR Ramchandra Menon)  
Chief Justice

Sd/-  
(Parth Prateem Sahu)  
Judge

roshan/-