

**Sr. No. 204
IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

CWP No.13367 of 2014 (O&M)

Date of Decision: 01.05.2019

Renu Goyal

... Petitioner

Versus

Indian Oil Corporation Limited and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Ashwani Talwar, Advocate with
Mr. Sahej Mahajan, Advocate,
for the petitioner.

Mr. Anil Kumar Gahlawat, Advocate,
for respondent No.4.

Mr. Ashish Kapoor, Advocate,
for respondents No.1 to 3.

Mr. Satish Singla, Advocate,
for respondent No.5.

ARUN MONGA, J.(ORAL)

Challenge in the present writ petition, *inter alia*, is to the re-evaluation of the eligible candidates who applied for allotment of a Rural Retail Outlet for sale of petrol/diesel (Kisan Seva Kendar).

2. It is the case of the petitioner that in the first round of evaluation carried out by the respondent-Indian Oil Corporation, she was awarded 84.58 marks and was placed 1st in the merit list, whereas private respondent No.4 was evaluated at 75.25 marks and was placed 3rd. However, in the second round when re-evaluation was carried out, respondent No.4 was awarded 90.25 marks and resultantly became 1st in the merit list whereas

petitioner was relocated to 2nd position.

3. At the outset, learned counsel for the respondents submits that present writ petition is liable to be dismissed as the petitioner has not approached this Court with clean hands and has concealed material facts as is borne out from affidavit dated 10.01.2018, filed by Senior Manager of the Indian Oil Corporation.

The relevant whereof is extracted hereinbelow:-

“It is stated that the petitioner had also applied for another KSK location Dwarka, District Bhiwani under Open (W) Category, which was advertised on 13.08.2011. Interview for the subject location was held on 22.05.2012 and the petitioner was declared as first empanelled candidate. Thereafter, petitioner was informed vide letters dated 05.10.2013, 16.01.2014, 06.05.2014 and 09.06.2014 to visit the office of the Corporation and to collect the LOI. However, she did not turn up to collect the subject LOI. Accordingly, approval for cancellation of empanelment of the petitioner was approved on 17.03.2015 and the petitioner was informed vide letter dated HDO/KSK/Dwarka dated 02.04.2015 about cancellation of her empanelment.”

4. Confronted with the above factual averments, learned counsel for the petitioner submits that the petitioner was not bound to disclose the above as she is aggrieved against a particular allotment which has been challenged in the writ petition and she is at liberty to apply for multiple outlets, but only at the time of acceptance of 'Letter of Intent' she has to opt for one, in the event, she is allotted more than one outlets.

5. Be that as it may, I am of the opinion that while it is not disputed that a candidate is entitled to one allotment, but in

fairness petitioner ought to have disclosed the above fact of having been offered another outlet, which she declined to accept.

6. Even otherwise, on merits, the eligibility condition clearly envisages that a client should be a resident of concerned district under which the location has been advertised. In order to fulfil the said condition, the petitioner submitted a 'Residence Certificate', dated 08.09.2011 issued by Tehsildar of Charkhi Dadri (Annexure R-4/2).

7. A perusal of the said certificate shows that the same does not mention any address of the petitioner and simply certifies that she is a resident of Tehsil Charkhi Dadri, District Bhiwani.

8. Learned counsel for respondent No.4 rightly points out that such an address cannot be located particularly in view of the fact that Charkhi Dadri is a big town and recently has been made a District in Haryana. On the other hand, learned counsel for respondent No.4 relies on the 'Ration Card' of the petitioner which he obtained under RTI and the same clearly states that her address is House No.65, Ward No. 22, Hisar.

9. The said Ration Card has not been disputed by the petitioner as neither any application has been filed nor any affidavit to controvert the same. The Ration Card also reflects that as on the date of issuance of the same, the petitioner was 42 years old.

10. As regards merits, Mr. Ashish Kapoor, learned counsel for respondents No.1 to 3-Indian Oil Corporation submits that as per Regulation 18, the Oil Corporation is well within its limits to

address the grievance of any complainant with regard to evaluation carried out as per procedure prescribed therein.

11. He submits that in the second round of evaluation, it came to the notice of the Oil Corporation that respondent No.4 had a clear title of the land in question in his favour vide sale deed dated 29.08.2011 which clearly reflects the dimensions of the land purchased by him from one M/s Sham Stone Crushing Mills. Affidavit of the co-owners along with consent and copy of Patwari report dated 05.09.2011 was also submitted which showed that the plot was demarcated in respect of the area offered by respondent No.4 for establishing the retail outlet.

12. In the premise, I am of the opinion that the mistake of awarding 25 instead of 35 marks to respondent No.4 in the first round was rightly corrected. After he was granted 35 marks the merit list of panel was consequently revised.

13. Respondent No.4 having a clear title in his favour deserved 35 marks in the second round as his sale deed is much prior to the cut off date.

14. In the parting, I would like to mention that learned counsel for the petitioner very emphatically argued that mutation qua the land for which respondent No.4 has been given full marks for holding the title, was sanctioned in his favour after the cut off date and, therefore, he could not have awarded full marks for the title. The said argument lacks any substance. It is settled law that it is the sale deed/title deed which confers the title and not mutation deed in favour of title holder.

15. In view of my discussion above and the reasons contained therein, the writ petition is dismissed.

16. No order as to costs.

01.05.2019
vandana

(ARUN MONGA)
JUDGE

Whether speaking/reasoned	Yes/No
Whether Reportable	Yes/No