

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH****Date of decision: 20 .12.2019****CWP No.5848 of 2012 (O&M)**

Sinderpal Kaur

...Petitioner

Vs.

Union of India & others

...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINAPresent: Mr. K.S.Sidhu, Senior Advocate, with
Mr. Dushyant Sarvesh, Advocate, for the petitioner.Mr. Satya Pal Jain, Additional Solicitor General of India, with
Mr. Satish Singla, Advocate, for respondent No.1.Mr. Ashish Kapoor, Advocate,
for respondent No.2.Mr. Vivek Thakur, Advocate,
for respondent No.3.**RAJIV NARAIN RAINA, J.**

1. By way of this petition, challenge is laid to the order dated 5.3.2012 (Annex P-13) declining the petitioner's application for award of Rajiv Gandhi LPG Vitrak (RGGLV) Gas Agency and upon quashing thereof the petitioner's candidature be considered by a mandamus to be provisionally interviewed for allotment subject to the ultimate decision of the writ petition. The petitioner prays that the 3rd respondent be displaced in favour of the petitioner.

2. By an interim order dated 2.4.2012, this Court while issuing notice to the respondents directed that any allotment made shall be subject to the further orders to be passed by this Court.

3. A few facts are necessary to adjudicate the *lis*. The last date of submitting applications for RGGLV was 09.04.2011. The husband of the petitioner became owner of the property on 05.04.2011 on which distributorship was based with an entry in the jamabandi (Annex P-12). Land was essential for setting up a LPG Godown to be constructed for running the business. The entry of mutation was admittedly made on 28.07.2011. Mutation is for only for revenue purposes and is not a document of title.

4. Petitioner claims that document of title came into existence much prior to the cut-off date which assured consideration and, therefore, the petitioner cannot be held ineligible to apply.

5. The second challenge is that NOC from the husband of the petitioner was never asked for, otherwise there was no difficulty to submit the same.

6. The interviews were fixed for 30.03.2012. The reasons for rejection of the candidature of the petitioner are contained in the impugned order passed by the Indian Oil Corporation Limited declaring the petitioner as ineligible for award of RGGLV. Those reasons are reproduced below:

“(a) You have not mentioned Financial Year 2009-10 and not declared whether income tax payee or not in appendix-B affidavit. Re-submit it.

(b) You have claimed godown land bearing khasra no.125(6-5) on your husband name Sh. Gurpreet Singh. But on scrutiny of documents attached alongwith application, it is found that farad attached does not reflect above said khasra number. Clarify it.

You have submitted your reply vide letter Ref.No.CAO/100/016 dated Nill received on 04.12.2011 wherein you have submitted a farad which reflects that Sh. Gurpreet Singh S/o Sh. Darshan Singh is not owner. Which does means you do not have own godown land at advertised location and you have also not submitted NOC from your husband, so your candidature is found ineligible. Beside mutation date is of 28.07.2011 which is after date of application.”

7. The petition has been amended with permission to do so. The reason for amendment is to lay challenge to the draw of lots held on 30.03.2012 declaring Saksham Gupta as the selected candidate. By the amendment fresh facts have been introduced regarding Saksham Gupta, inter alia, contending that he failed to provide his residence certificate to IOC as per the requirement. His candidature was cancelled by IOC by letter dated 17.07.2012. Again a draw of lots was held for the remaining candidates (minus Saksham Gupta) on 28.09.2012 and RGGLV was ultimately allotted to one Dhanwant Singh. Therefore, the contesting respondent was impleaded, namely, Dhanwant Singh. The amendment was allowed on 22.01.2016 with the amended petition taken on record. Fresh reply has been filed and counsel heard.

8. In the application form, the petitioner has mentioned the date of sale deed as 31.03.2011, which is a false statement. The application form contained a declaration in which a prospective candidate has to declare that he/she is aware that evaluation of candidates will be done on the basis of the information given in the application.

9. On the date of application, the petitioner did not hold the property either in her name or in the name of her husband Gurpreet Singh.

This fact is pointed out by Mr. Ashish Kapoor, learned counsel representing IOC while contesting the petition on the facts narrated in the reply. It is averred that initially Saksham Gupta was selected as successful candidate in the draw of lots, but later on his candidature was cancelled on 17.7.2012 as he could not provide the residence certificate, which was an essential condition of allotment. Khasra No.125(6-5) claimed by the petitioner in her application does not appear in the farad attached by her with the application. This discrepancy was communicated to the petitioner vide letter dated 24.11.2011 from IOC. In reply thereto, she submitted jamabandi, wherein this khasra number was recorded as “Gurpreet Singh s/o Darshan Singh not owner”.

10. As per Clause 4(g) of the Brochure (Annex R-2/1), an applicant should own a suitable land (plot) of minimum size 20 mts x 24 mts in dimension at the advertised RGGLV location for construction of LPG Cylinder Storage Godown. ‘Ownership’ has been defined to include the name of applicant/family member of the ‘Family Unit’ as defined in multiple dealership/distributorship form. In case of ownership/co-ownership by family member, consent letter from the family member will be required. There are other stringent terms & conditions which may not detain us, as they are not essential for decision-making in the present case. The IOC drew a conclusion from the deficiencies that neither the petitioner nor member of the family unit owns land at the advertised locations and, therefore, NOC from her husband was not asked for since jamabandi being one of the best source of proof of ownership did not record Gurpreet Singh as owner. The *farad* has been attached with the reply in support of the averments. The document of title was executed on 05.04.2011 placed at running pp.104.

11. Respondent No.3 has contested the writ petition by filing a separate written statement through Mr. Arvind Thakur. It is submitted by him that respondent No.3 has been impleaded as party after more than two years of the allotment of RGGLV on 23.11.2012 with the Letter of Intent issued in March, 2013 appointing the respondent to run the Gas Agency in the name and style of M/s Jimmy Indane Gramin Vitrak. The documents with the application form did not spell ownership of petitioner or family member. These documents were not accompanying the application. Even the date in the application showing ownership through sale is a false declaration since ownership came later on for the purpose of consideration of Gas Agency. Until 31.03.2011, the land was held in the name of Darshan Singh, father-in-law of the petitioner. A father-in-law does not fall within the meaning of 'Family Unit' as by definition the unit applies to a married applicant, family unit comprising self, applicant's spouse and unmarried son's/daughter's. The affidavit furnished by the father-in-law of the petitioner has no relevance to eligibility. The jamabandi at the time of application was for the other land in the name of the father-in-law. The petitioner had stated in her affidavit that her husband Gurpreet Singh is owner of land on 31.03.2011, whereas she has not been able to produce proof of the statement. Husband Gurpreet Singh has not given NOC in favour of the petitioner, which is the requirement of the application. Therefore, her candidature was rightly rejected by the respondent company. If the petitioner does not come within the advertised terms & conditions, she cannot claim candidature as a matter of right or to criticize the decision of the IOC.

12. Even if the decision of the IOC rejecting the candidature of the petitioner is wanting in some respect, Mr. Kapoor for IOC submits that there

is sufficient material on record to show that the petitioner did not fulfill the terms & conditions of the advertisement with respect to ownership of land. If the ownership of the land is itself the disputed issue, the basis of the claim stands removed. The petitioner was unable to resolve the issue till 16.12.2011, the date fixed in the impugned order for furnishing the necessary material and, therefore, having regard to the attending facts and circumstances of the case coupled with the false declaration fatally made by the petitioner in her own hand in the application form regarding date of registration of sale deed, no interference is called for in this petition and the same is ordered to stand dismissed. False in part is false in whole, when it is not intelligibly possible to divorce the two. If the petitioner had not the requisite landholding, I fail to see how the Court can come to her aid.

20.12.2019
Vimal

[RAJIV NARAIN RAINA]
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes
Yes/No