

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

L.P.A. No.1446 of 2018 (O&M) in
Civil Writ Petition No.21914 of 2018
Date of Decision : October 31, 2019

Rakesh

...Appellant

Versus

Union of India and others

...Respondents

**CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA,
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU**

Present: Mr.Sumeet Mahajan, Senior Advocate with
Mr.Amit Kohar, Advocate for the appellant.

Dr.Parveen Hans, Advocate for respondent No.1.

Mr.Aman Arora, Advocate for respondent No.2.

HARINDER SINGH SIDHU, J.

1. This Letters Patent Appeal has been filed against the judgment dated 30.08.2018 in CWP No.21914 of 2018 titled 'Rakesh vs. Union of India and another' whereby the writ petition filed by the appellant was dismissed.

2. The appellant had filed the writ petition challenging the communication dated 26.07.2018 and 01.08.2018 informing him that his candidature for award of LPG Distributorship has been rejected.

3. In June 2017 the respondents issued a Brochure on Unified Guidelines for Selection of LPG Distributors Sheheri Vitrak, Rurban Vitrak, Gramin Vitrak and Durgam Kshetriya Vitrak. The appellant

applied for allotment of LPG distributorship in Rurban (Open) category at Hisar. He was successful in the draw of lots held on 17.11.2017. Vide letter dated 18.11.2017, he was asked to deposit an amount of Rs.50,000/- towards Field Verification Credentials (FVC). He was further required to submit a set of documents as mentioned in para 2 of the letter within 07 working days. It was specified that verification would be made during Field Verification of Credentials (FVC). The petitioner deposited the amount of Rs.50,000/- vide demand Draft dated 21.11.2017. He received communication dated 26.07.2018 followed by another communication dated 01.08.2018 informing him that he was not found eligible in the Field Verification. The relevant part of the said communication is extracted below:

“1. The land offered by you for the godown/showroom did not have registered lease deed.

2. The first alternate land offered for godown within Swastik Cooperative House Building Society Ltd., Hisar was not suitable for the construction of godown as per Assistant Registrar, Co-operative Societies, Hisar.

3. Documents of the second alternate land [Khewat No. 181, Khatauni No. 191, Khasra No. 75/3 Min West (8-0), Jamabandi Year 1976, Village – Kheriberki] offered for godown were not submitted within the stipulated period inspite of our repeated requests multiple times.

Please refer Brochure on Unified Guidelines for selection of LPG Distributors June, 17.

Clause No.8A which clearly mentions that candidate 'Godown: Applicant should 'own' a plot of land of capacity, minimum dimensions and located as specified

below for construction of LPG Godown or 'Own' a ready LPG cylinder storage godown as on the last date for submission of application as specified either in the advertisement or corrigendum (if any).”

As per the said communication he was not considered eligible as:

- (i) the land offered by him for the godown/showroom did not have registered lease deed.*
- (ii) The first alternate land offered for godown within Swastik Cooperative House Building Society Ltd., Hisar was not suitable for the construction of godown as per Assistant Registrar, Co-operative Societies, Hisar.*
- (iii) Documents of the second alternate land [Khewat No. 181, Khatauni No. 191, Khasra No. 75/3 Min West (8-0), Jamabandi Year 1976, Village – Kheriberki] offered for godown were not submitted within the stipulated period inspite of our repeated requests multiple times.*

4. Before the Ld. Single Judge the grievance of the appellant was centred only on the second ground of rejection. It was his contention that he had submitted an application on 09.08.2018 indicating that Assistant Registrar, Cooperative Societies, Hisar vide his letter dated 27.06.2018 had informed the respondent Bharat Petroleum Corporation Limited that on verification of records of Swastik Cooperative Home Building Society Hisar, it had been found that plots Nos.23, 24 and 33 in Sham Vihar, Extension Phase-II, Hisar had been allotted to Hanuman Singh, father of the appellant. As per Resolution dated 24.06.2014 passed in the General Meeting of the Society, plots Nos.01 to 58 of this Colony had been kept reserved for commercial activity. Plots No.23, 24 and 33 were amongst

those 58 plots. The Secretary of the Society had submitted a 'No Objection' certificate regarding the use of the said plots for Gas Godown. Thus, the said plots could be used for construction of godowns. It was accordingly argued that the respondents were wrong in not taking into consideration the aforesaid report of the Assistant Registrar, Cooperative Societies, Hisar and rejecting the case of the appellant based on an earlier report.

5. Ld. Single Judge held that the representation dated 09.08.2018 had been made after the rejection of the claim of the appellant on 26.07.2018 and 01.08.2018 and hence could not have been taken into consideration. It was also observed that the appellant had not demonstrated as to how any of the reasons mentioned in the impugned communications for rejecting his claim were incorrect. Accordingly, the petition was dismissed.

6. Ld. counsel for the appellant has primarily argued that the communication dated 27.06.2018 had been addressed by the Assistant Registrar, Cooperative Societies to the respondents before they had rejected the claim of the appellant. In his representation dated 09.08.2018 he had only drawn the attention of the respondents to the earlier communication of the Assistant Registrar dated 27.06.2018. He, thereby, argued that the Ld. Single Judge has erred in holding that the No Objection of the Assistant Registrar, Cooperative Societies, Hisar had been brought to the notice of the respondents after they had rejected the claim of the appellant.

7. Their contention also does not help the appellant. It is clear from the pleadings that the representation dated 09.08.2018 submitted by

the appellant had been forwarded to the Bharat Petroleum Corporation Limited vide letter dated 14.08.2018. The appellant himself has annexed a communication dated 29.08.2018 (Annexure- A-5) from the Bharat Petroleum Corporation Limited, wherein, the letter dated 27.06.2018 received from the Assistant Registrar, Cooperative Societies, Hisar has been considered and has been found to be non-conclusive and not in conformity with the requirements. The said communication is reproduced below:

“We write with reference to your representation Ref.BPCL/PG/2018-19/40199 regarding opening of LPG Distributorship at Hisar.

We give below our comments as under:-

- In the application, you had offered land for Godown leased in name of self at advertised location – Hisar, District Hisar. The lease deed was not registered. Hence, this original offered land was rejected.*
- You offered alternate land vide letter 15.12.2017 located within Swastik Co-operative House Building Society Ltd., Hisar.*
- Assistant Registrar, Co-operative Societies, Hisar vide his letter dated 23.2.2018 informed that said plot of Society cannot be used for construction of LPG Godown. Hence, this first alternate plot of land was also rejected.*
- You offered another alternate land vide letter dated 16.3.2018. However, you had submitted only incomplete documents with respect to the land. Same was sought from you vide email dated 23.3.2018 wherein you were specifically told to submit balance documents by 27.3.2018. Reminders were sent to you by emails dated 13.4.2018, 23.4.2018, 26.4.2018 and 9.5.2018 to submit documents by 16.4.2018, 25.4.2018, 27.4.2018 and 11.5.2018*

respectively. Another email dated 23.5.2018 was sent to you asking to submit documents urgently. Till the date of cancellation of your candidature, no documents have been submitted by you.

Candidates are supposed to arrange all documents establishing ownership of land either in his/her name or members of family unit, so that FVC for that land can be completed. However, inspite of almost 4 months having elapsed from 16.3.2018, you had not submitted balance documents pertaining to Godown land. Hence, this second alternate land was rejected.

Meanwhile, another letter received dated 27.6.2018 from Assistant Registrar, Co-operative Societies, Hisar regarding the first alternate land in Housing Society. He has enclosed letter from his Inspector, Cooperative Societies, Hisar-II mentioning that management of Society has resolved in its meeting dated 16.4.2018 and accorded permission for construction of LPG Godown. However, the enclosed record of meeting is only signed by the President and not a resolution. There is no permission granted by Assistant Registrar, Cooperative Societies, Hisar and it does not withdraw the objections raised by him vide his earlier letter dated 23.2.2018. This letter dated 27.6.2018 is non-conclusive and open ended.

- Hence, all 3 lands as detailed above, offered by you are not meeting the norms and you had not been able to provide any suitable alternate land for godown inspite of sufficient time having been given to you. We were compelled to close the FVC in view of this and your candidature was cancelled.*

The above was explained personally in detail to you several times during your visit to Hisar Territory Office and also let

known to you by our Registered Letter HSR LPG, FVC, Hisar dated 26.7.2018 and hand-delivered letter of same reference dated 1.8.2018.

Thanking you,

sd/-

for Bharat Petroleum Corporation Limited”

8. Thus, even the letter dated 27.06.2018 from the Assistant Registrar, Cooperative Societies, Hisar does not satisfy the requirements.
9. In view thereof, there is no merit in the claim of the appellant.
10. Thus, the appeal is dismissed.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

October 31, 2019
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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No