

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.7312 of 2020

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Saurav Kishore, aged about 24 years, Son of Jaikishore Prasad Singh,
Resident of Baijnathpur, Ward No.11, P.S.-Sour Bazar, District-Saharsa.

... .. Petitioner/s

Versus

1. The Indian Oil Corporation Limited, Begusarai Divisional Office, near Barauni Refinery Police Station, Begusarai.
2. The Head of Divisional Office, Indian Oil Corporation Limited (Marketing Division), Divisional Officer, Begusarai, near Refinery Police Station.
3. The Deputy General Manager (Retail Sales), Begusarai Divisional Officer, Indian Oil Corporation, Begusarai.
4. The Marketing Division, Bihar State office, Indian Oil Corporation Limited, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Prashant Sinha, Adv.

For the Respondent/Corporatin : Mr. Ankit Katriar, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
ORAL JUDGMENT

Date : 05-10-2020

Heard Mr. Prashant Sinha, learned Advocate
for the petitioner and Mr. Ankit Katriar, learned Advocate
for the respondent/Indian Oil Corporation Ltd.

2. The issued in controversy here is whether
the land offered by the petitioner for being chosen for



Retail Outlet Dealership for the respondent/Indian Oil Corporation Ltd. (*in short the Corporation*) falls within the advertised stretch, which is two kilometers from the Baijnathpur roundabout in the District of Saharsa.

3. The petitioner was declared successful in the draw of lots, but the Land Evaluation Committee found the land offered by the petitioner, in the first instance, to be beyond the geographical limits prescribed in the advertisement.

4. A complaint/protest was made by the petitioner disputing such assessment of the Land Evaluation Committee. The Land Evaluation Committee, thereafter, gave its report that some part of the land falls outside the exact stretch of two kilometers, to be measured from the centre point of the Baijnathpur roundabout in the District of Saharsa.

5. Mr. Prashant Sinha, learned Advocate for the petitioner has though raised many issues, but agrees on the factual aspect that some part of the land offered by the petitioner falls outside the advertised stretch,



whereas the major portion of the land is within two kilometers of the Baijnathpur roundabout, which is prescribed in the advertisement.

6. Mr. Ankit Katriar, learned Advocate for the respondent/Corporation, however, has disputed the aforesaid contentions of the petitioner and has submitted that once the Land Evaluation Committee has taken a decision after measurement of the land in question in presence of an agent of the petitioner and the *Amin*, who had earlier certified that the land is within the advertised stretch, no question could be put on such decision.

7. It must be clarified that the report of the *Amin*, which has been offered by the petitioner in support of his contention that the land offered by him is within the advertised stretch, was prepared later in point of time than the measurement done by the Land Evaluation Committee.

8. The stand of the respondent/Corporation is that the selection of the Retail Outlet Dealership is not only based on strict advertisement conditions, which is,



in turn, based on the feasibility of the location. The offered plot of land, according to the Corporation, does not meet the minimum dimensions of the area, which assertion has again been disputed by Mr. Sinha, learned Advocate for the petitioner.

9. From the arguments advanced on behalf of the parties, one aspect comes out clearly that major portion of the land offered by the petitioner for being selected as a Retail Outlet Dealer falls within the two kilometers stretch, but some part of the same is beyond it. A corollary to the aforesaid finding is that the land offered by the petitioner is at the farthest extremity of the advertised stretch.

10. True it is, in such matters, strict interpretation of the advertisement conditions may not always be necessary and helpful for the parties, but the contrary is also correct that if it is not commercially viable and if other plot of land which is completely within the advertised stretch would suit the commercial interest of the company, no interference ought to be made in



disputing the assessment of the Land Evaluation Committee.

11. From the pleadings offered on behalf of the parties, this Court does not find any *malafides* or else, other grounds would have been urged to make the bid of the petitioner technically unresponsive to the advertisement/bid.

12. The requirements laid down in the advertisement are in clear and unambiguous terms and it must be given effect to. These are the rules of the game and it would always be fair for the parties and all other stake-holders, if the game is played strictly in terms of the rules.

13. The request of the counsel for the petitioner to implead the circle officer of Saharsa to certify whether the assessment of the Land Evaluation Committee about some portion of the land offered by the petitioner being outside the advertised stretch, may not be acceded to as this Court does not consider it to be expedient in the present situation. It is only the hard-



luck of the petitioner that some part of the land offered by him falls outside the advertised stretch.

14. As such, no direction can be issued to the respondent/Corporation for accepting the claim of the petitioner without any caveat.

15. However, this Court has taken note of the fact, which has been admitted by the parties, that the major portion of the land offered by the petitioner is within the advertised stretch. It is only the strict interpretation of the conditions provided in the advertisement and the policy of least interference in commercial matters by the Courts which have weighed with the Court in not accepting the plea of the petitioner. It is, therefore, expected that in case the respondent/Corporation does not get any other suitable land within the advertised stretch, the case of the petitioner may be reconsidered. This would not only be a commercially viable proposition for the company, but would also give an impression that the decision has been taken in a most fair manner.



16. However, such consideration shall only be taken into account if there is no other suitable land offered which has a better location than the one offered by the petitioner.

17. With the aforesaid observation/direction, the writ petition stands disposed off.

(Ashutosh Kumar, J)

Praveen-II/-

AFR/NAFR	AFR
CAV DATE	N/A
Uploading Date	08.10.2020
Transmission Date	N/A

