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

Civil Writ Petition No. 14920 of 2019
Date of Decision:January 30, 2020

Dinesh Kumar ....petitioner

Versus

Union of India and others .....respondents

CORAM: HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Jasbir Mor, Advocate
for the petitioner.

Mr. Ashish Kapoor, Advocate
for the respondents.

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Lisa Gill, J.

The petitioner seeks quashing of order dated 08.03.2019 (Annexure P16) wherein his candidature for the allotment of LPG Distributorship at Sacha Khera, District Jind under the open (GP) category advertised on 20.11.2013 has been cancelled. The petitioner's candidature has been cancelled on the ground that he does not fulfil the eligibility criteria as laid down in clause 6.1 of the Brochure/guidelines for selection of LPG distributorship. Clause 6.1 (vi) reads as under:-

> vi. Have minimum total amount of ₹15 lakhs for Urban Markets and ₹10 lakhs for Urban-Rural & Rural Markets respectively as the closing balance on the last date for submission of application as specified in the advertisement or corrigendum (if any). This amount is to be arrived at by adding amount in Savings Bank accounts in Scheduled Bank/Post Office, free and un-encumbered Fixed Deposits in Scheduled Banks, Post Office, Listed Companies/Government Organisation/Public Sector Undertaking of State and Central Government, Kisan Vikas Patra, NSC, Bonds, Shares of Listed Companies. Listed Mutual Funds, ULIP, PPF, Surrender Value of Life Insurance polices in the name of Applicant or family

members of the 'Family Unit' of the Applicant as defined above. In case of locations reserved under 'SC/ST' category, minimum total amount of ₹5 lakhs for Urban Markets and ₹2.5 lakhs for Urban-Rural & Rural Markets respectively should be available as the closing balance on the last date for submission of application as specified in the advertisement or corrigendum(if any).

It is not in dispute that the petitioner at the relevant time i.e. submission of the application, submitted FDR/FDR's which were not free. They were admittedly encumbered. Intimation regarding the same was duly communicated to the petitioner vide communication dated 22.11.2018 (Annexure P6), wherein it is clearly mentioned that the FDR submitted by him is not free as on the last date of submission of the application. It is further mentioned that in case, the petitioner has any other alternate funds in the form of financial instruments as mentioned in the brochure in his name/member(s) of the family unit as per definition of the family unit as on last date of the application, he was at liberty to submit the details thereof alongwith the supporting documents within three days of date of receipt of the letter.

Pursuant thereto, the petitioner reverted to the respondent – Corporation by giving details of an OD account of a firm namely M/s Laxmi Timber Store of which the petitioner claimed to the sole proprietor. It is mentioned in the reply dated 24.12.2018 (Annexure P-9) submitted by the petitioner that funds to the tune of about ₹19,50,000/- were available in the said account which should be considered as per the terms and conditions in the brochure.

The respondent – Corporation, on considering the reply, cancelled the candidature of the petitioner vide impugned communication dated 08.03.2019 (Annexure P16), categorically stating that the said account did not fulfil the eligibility criteria as far as the 'Funds requirement' parameter in the Brochure is concerned.

Aggrieved therefrom, present petition has been filed.

It is argued that the petitioner is the only eligible candidate for allotment of the LPG dealership though it is not disputed that the FDR submitted by the petitioner alongwith the application were indeed encumbered. It is vehemently argued that the account of M/s Laxmi Timber Store of which the petitioner is the sole proprietor has sufficient funds which meets the financial parameters as laid down in the brochure.

Learned counsel for the respondent – Corporation points out to Clause 6.1 (vi) and submits that financial parameters are not met by the petitioner, therefore, the present writ petition be dismissed.

Heard, learned counsel for the parties.

It is not in dispute that the petitioner's application was accompanied by an FDR which was encumbered at that point of time. Clause 6.1(vi) is clear and categoric inasmuch as it is specifically mentioned that the account in question has to be a saving bank account in a Scheduled Banks/Post Office. The details of the account furnished by the petitioner are admittedly of an OD account and that too of a firm, of which the petitioner claims to be the sole proprietor. 'Family unit' has been clearly defined in the brochure in Clause 6.1(v), which reads as under:-

> 'Family Unit' in case of married person/applicant, shall consist of individual concerned, his/her Spouse and their unmarried son(s)/daughter(s). In case of unmarried person/applicant,

'Family Unit' shall consist of individual concerned, his/her parents and his/her unmarried brother(s) and unmarried sister (s). In case of divorce, 'Family Unit' shall consist of individual concerned, unmarried son(s)/unmarried daughter(s) whose custody is given to him/her. In case of widow/widower. 'Family Unit' shall consist of individual concerned, unmarried son(s)/unmarried daughter(s).

The question of the petitioner being the sole proprietor of the Firm in question need not be gone into, keeping in view the fact that the account in question is an OD account and not a saving account. Once the criterion as laid down in the brochure is not met, the fact that the petitioner was found to be the sole eligible candidate at an initial stage, cannot be a ground to disregard the specific conditions. Learned counsel for the petitioner is unable to point out any illegality or infirmity in the action taken by the respondents.

Consequently, there being no merit in the writ petition, the same is dismissed with no order as to costs.

(Lisa Gill)
Judge

January 30, 2020
rts

Whether speaking/reasoned Yes/No.
Whether reportable- Yes/No