

CWP No.28939 of 2019 and connected cases

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

Sr. No.203

DATE OF DECISION: MARCH 03, 2020

CWP No.28939 of 2019

PUSHPINDER MARYA AND ANOTHER

..PETITIONERS

VERSUS

BHARAT PETROLEUM CORPORATION LTD. AND ANOTHER

...RESPONDENTS

2.

CWP No.28825 of 2019 (O&M)

RITU DEVI

..PETITIONER

VERSUS

BHARAT PETROLEUM CORPORATION LTD. AND ANOTHER

...RESPONDENTS

3.

CWP No.28990 of 2019

HARI SHANKAR

..PETITIONER

VERSUS

BHARAT PETROLEUM CORPORATION LTD. AND ANOTHER

...RESPONDENTS

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4. CWP No.29428 of 2019

ABHISHEK KUMAR

..PETITIONER

VERSUS

UNION OF INDIA AND OTHERS

...RESPONDENTS

5. CWP No.26247 of 2019

NIKHIL RAO

..PETITIONER

VERSUS

UNION OF INDIA AND OTHERS

...RESPONDENTS

6. CWP No.1676 of 2020

VIRBHAN

..PETITIONER

VERSUS

STATE OF HARYANA AND ANOTHER

...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Samrat Malik, Advocate,
for the petitioner(s) (in CWP Nos.28939,28825 &
28990 of 2019).

Mr. M.L. Saini, Advocate,
for the petitioner (in CWP No.29428 of 2019).

Mr. Sanjay Mittal, Advocate,
for the petitioner (in CWP No.26247 of 2019).

Mr. Gurjot Singh Sadhrao, Advocate,
for the petitioner (in CWP No.1676 of 2020).

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Mr. Manish Dadwal, AAG, Haryana.

Mr. Raman Sharma, Advocate,
for the respondents (in CWP Nos.28939,28825 &
28990 of 2019),
for respondents No.2 to 4 (in CWP No.29428 of 2019)
for respondents No.2 & 3 (in CWP No.26247 of 2019) and
for respondent No.2 (in CWP No.1676 of 2020).

SUDHIR MITTAL, J. (ORAL)

This judgment shall decide CWP Nos.28939, 28825, 28990, 29428 and 26247 of 2019 and CWP Nos.1676 of 2020 as common questions of fact and law are involved therein. The facts are being extracted from CWP No.28939 of 2019 titled as ***Pushpinder Marya and another vs. Bharat Petroleum Corporation Ltd. and another.***

2. Respondent No.1 issued an advertisement for allotment of petroleum retail outlets, pursuant to which, the petitioners submitted their applications dated 02.12.2018. They applied in 'Group 1'. Draw of lots was held on 20.06.2019 and they were declared successful. Vide communication dated 27.06.2019, the petitioners were informed of their success and they were directed to submit the requisite documents within 10 days. The requisite documents included Appendix-IIIB i.e. a certificate of an advocate certifying that the land offered in the application fulfilled the criteria laid down for 'Group 1'. The requisite documents were submitted within 10 days and the date of Appendix-IIIB submitted along with said documents is 28.06.2019. Vide email dated 19.09.2019, the petitioners were informed that their candidature had been rejected on account of the fact that the Appendix-IIIB submitted by them was of a date later than the

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date of the application.

3. The case of the petitioners is that communication dated 27.06.2019 vide which they were directed to submit all the documents did not specify that Appendix-IIIB must be of the date of the application. Thus, the said document of the date on which the documents were prepared for submission was given. The petitioners were also in possession of an Appendix-IIIB dated 02.12.2018 which was sent in original to the respondent on receipt of communication dated 19.09.2019 and thus, the objection stood removed. Brochure dated 24.11.2018 regarding selection of dealers only stipulates that the land offered should relate to the date of the application and nothing more. There is no dispute that the land offered by the petitioners relates to the date of the application and thus, rejection on the ground of Appendix-IIIB being of a later date, is illegal.

4. Learned counsel for respondent places reliance upon Clause 4 (v) (k) of the aforementioned Brochure to argue that Appendix-IIIB must be of the date of the application and not of a later date. He further submits that the application form also specifies that the identification of the group for which an applicant is submitting his application must be based on the advocate's letter i.e. Appendix-IIIB. It also contains a declaration that the application is being filled in accordance with the documents given by an advocate. Further while submitting the application, an applicant gives an undertaking that the information provided therein is on the basis of supporting documents in original. Thus, Appendix-IIIB has to be of the date of the application and not later. The applications of all the applicants are uniformly considered on the basis of such an understanding and thus,

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there is no illegality in the impugned order. All applications are scrutinized in accordance with the terms of the Brochure and conditions mentioned in the application form. The respondent is acting strictly in accordance with the said terms in an uniform manner and the practice has been in force for a long time.

5. Clause 4 (v) (k) of the Brochure is reproduced below for ready reference:-

*“Each applicant will have to declare, in the application form, the category under which offered land falls. Supporting the above, confirmatory letter from an advocate (**Appendix-IIIB**) giving details of the current ownership, documents relied upon and the category under which the land falls (Group 1 or Group 2), **as on date of application**, is also to be furnished as and when advised. The Group under which the applicant's land falls, would be determined based on the declaration given in the application and confirmatory letter from the advocate regarding the same.”*

6. Serial No.9 of the application form is also reproduced:-

“Group of the Applicant on the Basis of Advocate's letter with applicant on land being offered.”

7. The declaration contained in the application form is as follows:

“That as per the documents and report from advocate, available with me/us, my/our offer qualifies for being considered under “GROUP 1” as defined in clause 4 (v) of the Brochure for retail outlet dealer selection by the Oil Company

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Bharat Petroleum Corporation Ltd.”

8. One of the undertakings given by the applicant while submitting the application and relied upon for the purposes of this case by the learned counsel for the respondent, is as follows:

“I also confirm that I am in possession of the supporting documents in original in respect of the information given by me in this application and if selected, failure to present these documents in original will result in cancellation of selection due to submission of false/unsupported information in this application.”

9. Clause 4 (v) (k) reproduced above stipulates that the category in which the land offered by him is covered, must be declared in the application form. The declaration should be supported by Appendix-IIIB issued by an advocate. This confirmatory letter must show that the land offered was available 'as on date of application'. There is no requirement that the confirmatory letter also should be of the date of the application.

10. However, para No.9 of the application states that the applicant must identify his group on the basis of the letter of an advocate available with him. The declaration aforementioned further provides that information contained in the application is on the basis of *inter alia* report of an advocate. The applicant also gives an undertaking that he is in possession of supporting documents in original and that the information given in the application is on the basis of the said documents. Appendix-IIIB is included in the said supporting documents. Thus construed, the group for which the applicant submits his application can be identified only on the

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basis of the letter issued by an advocate because he certifies therein that the requirements of land as given in the Brochure are fulfilled. Thus, a logical corollary thereof is that Appendix-IIIB must be available with an applicant when he files the application. It may be of the date of application or may be even of an earlier date.

11. Appendix-IIIB of a later date may not *per se* be illegal so long as the same certifies that the land offered by an applicant fulfilled the criteria laid down in the Brochure as on the date of the application. Yet, various stipulations contained in the application form, leave no manner of doubt that the same must be of the date of application or a date earlier but not of a later date. These terms must be kept in mind while scrutinizing an application. All applications have been uniformly scrutinized and there is nothing unreasonable in the procedure adopted.

12. Accordingly, these writ petitions have no merit and are dismissed.

March 03, 2020

Ankur

**(SUDHIR MITTAL)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable

Yes/No