

CWP No. 37280 of 2019 (O&M)

Date of Decision: February 28, 2020

Mahinder Kumar

.....Petitioner

versus

Indian Oil Corporation Ltd. and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Naveen Kumar Jaglan, Advocate
for the petitioner

Mr. Ashish Kapoor, Advocate
for respondents No. 1 to 3

Sudhir Mittal, J. (Oral)**C.M. No. 3454-CWP of 2020**

This is an application for placing on record Annexure P-11.

Application is allowed and Annexure P-11 is taken on record subject to all just exceptions.

CWP No. 37280 of 2019

The petitioner made an application dated 24.12.2018 for allotment of a retail outlet. In the draw of lots conducted, the petitioner was successful and was informed of the same vide communication dated 19.07.2019. Consequently, the petitioner submitted the initial security deposit and relevant documents on 29.07.2019. After scrutiny of the documents, the candidature of the petitioner was rejected vide communication dated 24.10.2019.

After the date of application, respondent – Oil Company had sent a communication dated 16.06.2019 to the petitioner granting him three months time to submit details of the land offered.

Learned counsel for the petitioner submits that the rejection of his candidature is illegal as deficiencies on the basis of which the same has been rejected were rectifiable. The first deficiency pointed out is that the caste certificate is of a date later than the date of the application. In case, the petitioner had been given an opportunity he could have rectified the same as he was in possession of earlier caste certificate also. The second deficiency regarding land documents could also have been rectified.

Learned counsel for the respondent - Oil Company states that the petitioner was an applicant in Group 1. The applicants in the said Group must offer a suitable piece of land either owned by them or leased to them for a minimum period of 19 years and 11 months. The land should be available with the applicant as on the date of the application. This is clear from the Clause 4 of the Brochure for selection of dealers dated 24.11.2018 (Annexure P-1), which lists out the eligibility criteria. The land offered by the petitioner is on the basis of a lease deed dated 15.04.2019, which is beyond the date of the application and, thus, the same could not have been accepted. The same is the case regarding caste certificate. The petitioner was not entitled to replace the documents as the relevant terms and conditions contained in the Brochure do not permit replacement. The deficiencies are not rectifiable, as has been contended by learned counsel for the petitioner and, thus, there is no error in the impugned order. Meanwhile, after rejection of the candidature of the petitioner, fresh draw of lots was held and third party rights have intervened. Thus, the writ petition can not succeed.

From clause 4 of the Brochure aforementioned (eligibility criteria for individual applicants - proprietorship/partnership), it becomes clear that Group 1 applicants must offer a suitable piece of land either owned or leased for a minimum

period of 19 years and 11 months. Further, the said land should be available as on the date of the application. Evidently, the petitioner had left the column pertaining to land 'blank' while submitting his application dated 24.12.2018 and he was granted three months time vide letter dated 16.01.2019 to furnish the requisite details. The documents furnished by him are in respect of land, the lease deed of which is dated 15.04.2019 i.e. beyond the date of the application. Thus, the petitioner did not possess the requisite eligibility criteria and his candidature was liable to be rejected.

The contention of learned counsel for the petitioner that he should have been granted three months time to offer alternate land also can not be accepted because the aforementioned eligibility criteria states that three months time is to be granted to an applicant to offer alternate land, if none of the applicants in Group 1 offers land in accordance with the requirements of the Oil Company. Learned counsel for the petitioner has not been able to show that the land offered by other applicants in Group 1 was also not entitled to be considered. His further argument that three months time was granted to the petitioner vide communication dated 16.01.2019, is also misconceived because the said communication was issued only on account of the fact that the original application dated 24.12.2018 did not contain details of land as required for Group 1 applicants.

Thus, there is no error in the impugned order. The writ petition has no merit and the same is dismissed.

February 28, 2020

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No