

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9706 of 2020

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Babli Kumari D/o Shri Shayam Sunder Prasad Resident of Village- Tholi More, Kakolat, P.S.- Govindpur, District- Nawada.

... .. Petitioner

Versus

1. The Union of India.
2. The State of Bihar Through Collector, Nawada.
3. The Managing Director Indian Oil Corporation Limited, New Delhi.
4. The Chief Manager Indian Oil Corporation Limited, Block- A, Maurya Complex (Third Floor).
5. The Chief Retails Sales Manager Patna Divisional Office Indian Oil Corporation Limited.
6. Ruby Kumari, Wife of Shree Devendra Kumar, laughter in law of Shree Jagdish Prasad Yadav, Resident of Village-Thali Bazar, P.O.-Sughari, Police Station-Govindpur, District-Nawal.

... .. Respondents

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Appearance :

For the Petitioner	:	Mr. Rakesh Kumar Shrivastava, Advocate
For the Respondent No.1:		Dr. K.N.Singh, ASG
For the Respondent No.2:		Mr. U.P.Singh, AC to SC-4
For the Respondent IOCL :		Mr. Ankit Katriar, Advocate

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

and

HONOURABLE MR. JUSTICE MADHURESH PRASAD

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH)

Date : 16-12-2021

Facts of this case relevant for present adjudication are brief and not in dispute. A press communique was issued on 24.11.2018 by the Indian Oil Corporation (IOC in short) inviting applications for selection of Dealers for Regular & Rural Retail Outlets for Bihar including the one for a location ‘within three Kms. from Thali More, Kakolat Road, District-Nawada’, in response to which the petitioner and others including one Ruby



Kumari had applied. On the basis of draw of lots on 20.06.2019, the said Ruby Kumari (added as respondent No.6) was declared successful. The petitioner filed this writ application, originally, calling for a direction from this Court to the respondents to (i) dispose of a complaint/representation dated 05.06.2020 made by the petitioner for an enquiry into the selection of the dealer for the said outlet and (ii) to quash the selection of respondent No. 6 as the dealer.

2. The petitioner's complaint filed before the authorities has subsequently been rejected by the competent authority duly communicated through letter dated 15.07.2020 . By filing an interlocutory application, being I.A. No. 1 of 2021, the petitioner has sought for quashing of the said letter dated 15.07.2020, whereby the petitioner's complaint has been rejected. Further, the petitioner has filed I.A. No. 2 of 2021 seeking impleadment of said Ruby Kumari and others as mentioned in paragraph 4 thereof, as party respondents.

3. Considering averments made in I.A. No. 1 of 2021, the same is allowed. Accordingly, relief originally sought in the writ application stands amended and the petitioner is permitted to question the legality of the communication dated 15.07.2020.



4. As regards I.A. No. 2 of 2021, in the facts and circumstances, the same is allowed to the extent it relates to impleadment of Ruby Kumari, she being a necessary party to this proceeding. Accordingly, let Ruby Kumari be impleaded as party Respondent No.6.

5. The Brochure on selection of dealers for regular and rural retail outlets contains, *inter alia*, the guidelines for selection of dealers as also grievance redressal system. From the impugned letter dated 15.07.2020, which has been brought on record by way of Annexure-8 to I.A. No. 1 of 2021, it transpires that the petitioner had made her complaint to the following effect : -

“That the land offered by Smt. Ruby Kumari is neither Registered or Leased in the name of Smt. Rubi Kumari, nor is the Annexure-III A submitted by Smt Ruby Kumari is of the date prior to the date of her application submission and thus her candidature is not eligible to be considered in the Group-I Category.”

6. It is reiterated that no complaint beyond what has been noted above was made by the petitioner invoking the grievance redressal clause of the Brochure. Clause 18 of the Brochure, which deals with the grievance redressal reads as under : -

“18. GRIEVANCE REDRESSAL SYSTEM



Any complaint should be accompanied by a fee of Rs. 5000/-, only in the form of demand draft of schedule bank, in favour of the Oil Company. Any complaint received without this fee will not be entertained. The complaint received against the selection including eligibility will be disposed off as under:-

(i) Complaints received before or after draw of lots/bidding process along with requisite fee of Rs. 5000/-, will be kept in record and investigation carried out after 30 days of Draw of Lots/bidding process only in following cases:-

- General complaints with verifiable facts*
- Complaints against selected candidate*

(ii) Any complaint received after 30 days from the date of draw of lots/bidding process will not be entertained.

(iii) Anonymous complaints without verifiable facts will not be investigated.

(iv) On receipt of a complaint a letter will be sent by the oil company to the complainant through Registered Post, asking him to submit details of allegation with a view to prima facie substantiate the allegations along with supporting documents, if any, within 20 days from date of dispatch of letter. While seeking documents and details, the complainant will be advised that if during the investigations,



complaint is found to be false and/or without substance, the Oil Company reserves the right to take action against the complainant as provided under the law and fee forfeited.

(v) In case a complaint is received against an applicant, who has not been selected in draw of lots/bidding process, the same will be kept in abeyance. In case the LOI against selected candidate is cancelled and the applicant against whom the complaint was received gets selected in the next draw or on account of bidding process, the complaint will only then be investigated.

(vi) If the complaint is not required to be investigated the fee received will be refunded to the complainant informing that the complaint has not been investigated since the candidate against whom the complaint has been made has not been selected. The fee will be refunded after issuance of LOA to the selected candidate.

(vii) In case complaint is received without the requisite fee of Rs. 5000/-, or received after 30 days of declaration of results, the complaint would not be entertained and complainant would be advised reasons for the same.

(viii) Corporation will examine response of the complainant and if it is found that the complaint does not have specific and verifiable allegations, the same will be filed and complaint



fee will be forfeited. Complainant will be advised accordingly.

(ix) If a decision is taken to investigate the complaint, decision on the complaint will be taken as under and intimated to the complainant:-

a) Complaints not substantiated:

In case the complaint is not substantiated it will be filed and complaint fee will be forfeited. Complainant will be advised accordingly.

b) Established Complaints:

In case of established complaint, the complainant will be advised accordingly and suitable action should be taken. In this case the complaint fee collected of Rs.5000/- will be refunded.

(x) In all cases, disposal of complaint should be in the form of speaking order.”

7. From the said order dated 15.07.2020, it appears that petitioner's complaint was thoroughly enquired into and investigated. It further appears from the said communication dated 15.07.2020 addressed to the petitioner that not only respondent No.6, the petitioner was also called for a meeting with the investigating officer. It has been concluded in the said communication that upon investigation, grievance/complaint/allegation made by the petitioner was found not factually correct.



The communication clearly mentions that an intimation letter to respondent No.6 about her selection in draw of lots was sent to her by e-mail dated 28.06.2019 and, on 28.06.2019, another e-mail was sent to her, wherein she was directed to submit documents in support of the information provided by her in her application form. Indisputably, in her application form, respondent No.6 had offered a land, belonging to one Jagdish Yadav, her father-in-law. She had submitted *jamabandi* documents of the land belonging to said Jagdish Yadav and had also submitted an affidavit in Appendix- IIIA, which was of the date, prior to the date of application submission.

8. This is noted, at this stage, that the application form required a declaration of the applicant to be given in respect of nature of land being offered, if any, for the purpose of consideration of grant of dealership. This is also to be noted that clause 4 of the Brochure lays down the eligibility criteria for individual applicants etc., sub-clause (v) thereof refers to classification of the applicants into three group based on the land offered or land not offered by them in the application forum. Group 1 classifies such applicants having suitable piece of land in the advertised location/area either by way of ownership/long term lease for a period of 19 years 11 months or advertised by the Oil



Marketing Company (OMC). Further, Clause 4(v)(e) stipulates that land owned by the family members will also be considered as belonging to the applicant (Group 1) subject to producing the consent letter in the form of affidavit (Appendix III-A) from the concerned family members. Furthermore, it has been clarified that parents-in-law for the said purpose shall be treated to be family members. There is no dispute, rather it is an admitted position, as is evident from the pleadings of the petitioner himself that the land offered by respondent No.6 was in the name of her father-in-law and, therefore, she was classified as Group 1 applicant.

9. The petitioner has placed heavy reliance on a communication made by the IOC through letter dated 28.06.2019 whereby respondent No.6 was asked to furnish certain documents after her selection within 10 days. The relevant portion of the said communication reads as under:-

“ please note that your candidature is liable to be cancelled in case initial security deposit is not remitted or the documents listed above are not submitted within 10 days from the date of this intimation ”

10. Subsequently, through letter dated 17.07.2019 a reminder was sent to respondent No.6 intimating her that the



documents as required by Corporation were not received. She was advised to remit the initial security deposit *on-line* and submit specified documents within 10 days from the date of the said intimation. It was further mentioned that candidature of respondent No.6 shall be liable for rejection in case she failed to submit the security deposit and the documents within stipulated time.

11. Learned counsel appearing on behalf of the petitioner has drawn our attention to *Clause-14* of the Brochure, relevant portion of which reads as under :-

“vi. Intimation to the selected candidate for submitting required documents (for conducting Land evaluation and Field Verification of Credentials) and remittance of 10% of Security deposit (Initial Security Deposit - ISD) within 10 days from the date of intimation.

vii. In case the candidate does not submit the documents and/or remit 10% of the Security Deposit (Initial Security Deposit), a reminder will be sent with the notice period of another 10 days that in case the required documents are not submitted the candidature is liable for rejection. In case the selected candidate fails to submit the documents and/or remit 10% of the Security Deposit (Initial Security Deposit), within this additional 10 days, his candidature will be rejected under intimation.”



12. He has submitted that as the respondent No.6 had failed to remit the security deposit and furnish the documents as required by the Corporation within time, in view of clear stipulation that her candidature was liable to be rejected, there was no occasion for the Corporation to have given her further time to file the said documents.

13. In our considered view, the said submission has no merit at all, for two reasons. Firstly, the petitioner in her complaint had raised the only one objection which has been noted by the authorities while rejecting the complaint. Secondly, the relevant provision under *Clause-14* of the Brochure, on which reliance has been placed on behalf of the petitioner, requires intimation to be given to the candidates for submission of required documents for conducting land evaluation and field verification of credentials and remittance of 10 per cent of security deposit within 10 days from the date of intimation.

14. It further requires that in case the candidate does not submit the documents and/or remit 10 per cent of security deposit, a reminder will be sent with the notice period of another 10 days, mentioning therein that in case the required documents are not submitted, the candidature shall be liable for rejection. Further, in case the selected candidates fails to submit the documents and/or



remit 10 per cent of security deposit (initial security deposit) within additional 10 days, his candidature will be rejected under an intimation.

15. This is an admitted fact that respondent No.6 did remit the security deposit and submitted the documents well within extended period of 10 days, on 22.07.2019, pursuant to communication dated 17.07.2019.

16. Drawing the Court's attention to the averments made in I.A. No. 3 of 2021, learned counsel appearing on behalf of the petitioner has attempted to convince this Court that on the date of application, the land which the respondent No.6 had offered was not, in fact, available, rather trees were planted over the said land. For the said reason also, award of the dealership in favour of the respondent No.6 cannot be sustained, he argues.

17. Mr. Ankit Katriar, learned counsel appearing on behalf of the respondent Corporation, has relied on a Supreme Court's decision in case of *Poddar Steel Corpn. v. Ganesh Engineering Works* (AIR 1991 SC 1579) to contend that in any view, the condition for furnishing the documents cannot be said to be an essential condition. We need not go into this aspect of the matter in view of limited objection which the petitioner had raised



in her complaint under Clause 18 of the Brochure and dealt with by the Corporation in the communication dated 15.07.2020.

18. On perusal of the materials available on record and consideration of rival submissions advanced on behalf of the parties and examination of relevant provisions of the Brochure in question, we are of the view that the petitioner has not been able to make out any case calling for interference by this Court in this matter for the reason that the specific case of the Corporation that the candidature of the respondent No.6 was validly classified as Group-1 on the basis of the information furnished in the application and subsequent inquiry/investigation carried out by the official/representatives of the Corporation.

19. In such view of the matter, we do not find any merit in this application. This application is accordingly rejected.

20. There shall, however, be no order as to costs.

(Chakradhari Sharan Singh, J)

(Madhuresh Prasad, J)

Pawan/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	23.12.2021
Transmission Date	N/A

