

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.585 of 2021

=====

Ranjeeta Kumari W/o Sh. Tridev Singh, D/o Dhirendra Nath Roy R/o
Lodhabari, P.O. Raipur, P.S.- Pothiya, District- Kishanganj.

... .. Petitioner/s

Versus

1. Bharat Petroleum Corporation Limited through Head of Territory Officer,
TM Retail, Barauni, Barauni TOP, Paprour, District- Begusarai.
2. The Head of Territory Officer, TM Retail Barauni, Barauni TOP, Paprour,
District Begusarai.
3. The Territory Coordinator, Bharat Petroleum Corporation Limited, Barauni,
District Begusarai.

... .. Respondent/s

=====

Appearance :

For the Petitioner/s	:	Mr. Ranjeet Kumar, Adv. Mr. Bimlesh Kumar, Adv.
For the Respondent-Corporation	:	Mr. Siddhartha Prasad, Adv.

=====

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
CAV JUDGMENT

Date : 24-12-2021

The present writ petition has been filed for quashing the letter dated 18.08.2020, issued by the Respondent No. 2 i.e. the Head of Territory Officer, TM Retail Barauni, Barauni TOP, Paprour, District-Begusarai whereby and whereunder the candidature of the petitioner, who had applied for award of RO dealership at Raniganj to Araria on NH



327E, District-Araria under the SC category, in pursuance to an advertisement dated 25.11.2018, has been cancelled. The petitioner has further prayed for directing the Respondents to award RO dealership in question to the petitioner.

2. The brief facts of the case, according to the petitioner are that an advertisement dated 25.11.2018 was issued by the Respondent-Bharat Petroleum Corporation Limited for award of RO dealership at various places in-between Raniganj to Araria on NH 327E, District-Araria. The petitioner had applied for award of RO dealership at Raniganj to Araria at NH 327E, District-Araria under the SC category on 22.12.2018, whereafter the petitioner was found to be an eligible candidate, hence he was asked to produce the requisite documents and the Land Evaluation Committee had visited the site on 30.7.2019. In fact, vide letter dated 06.12.2019, fresh date was fixed for carrying out field verification i.e. on 16.12.2019. It has also been stated by the petitioner that after the Land Evaluation Committee had visited the site, he was



advised to seek clarification from NHAI on the point as to whether the land offered by the petitioner is meeting the NHAI norms or not, since it was the observation of the Land Evaluation Committee that there are multiple village roads, interjecting National Highway within 300 meters of the offered plot. However, it is the case of the petitioner that the National Highway Authority of India has clarified that there is no other road within 300 meters of the offered land of the petitioner. It is submitted that though the petitioner is a member of scheduled caste category, but she has solemnized inter caste marriage with one Sri Tridev Singh, who is also an LPG distributor.

3. The learned counsel for the petitioner has referred to Clause 3 of the Brochure relating to Selection of Dealers for Regular and Rural Retail Outlets dated 24.11.2018, which is reproduced herein below:-

“3. Type of Retail Outlet Sites

The type of sites will be decided by the Oil Companies and the



same would be:-

S.N.	Type of Site	Status of Land & Facilities
i.	Locations under Corpus Fund Scheme (CFS sites)	The offered land would be taken on lease / purchased and fully developed as Corporation owned site.
ii.	Other Corporation Owned Sites ("CC"/"A" sites)	The offered land would be taken on lease /purchased and fully developed as Corporation owned site.
iii.	Dealer Owned site ("DC"/"B" sites)	The offered land and the super structure will be developed by the dealer. Pump, tank, automation, signages, etc. will be provided by the Corporation.

Note: Offered land can either be taken from the applicant or the owner of the land directly.

All locations rostered as SC/ST category will be developed as per (i) above."

4. The learned counsel for the petitioner has also referred to Clause 10 of the said Brochure, which is reproduced herein below:-

"10. DISQUALIFICATION

A. Individual Applicants:

The persons while meeting the above mentioned eligibility criteria if do not



satisfy any of the following requirements will be considered as ineligible for applying for the dealership:-

- (i) Fulfill Multiple dealership norms: Multiple Dealership norms as mentioned below will be applicable for existing and future "A" / "CC" site RO dealerships.*

Multiple Dealership norms means that the applicant or any other member of his/her 'family unit' should not hold a Corporation owned "A"/"CC" site RO/SKO-LDO dealership or RO/SKO-LDO dealerships/LPG distributorships developed under Corpus Fund Scheme and other Special category (DQ/ Operation Vijay/Parliament attack beneficiary, etc.), or Letter of Intent (LOI) for the same of any Oil Company.

Note :

- a) Existing "B" / "DC" site RO/SKO-LDO dealers/LPG distributors {other than those distributorships developed under Corpus Fund Scheme and other Special category (DQ/ Operation Vijay/Parliament attack beneficiary, etc)}. and LOI holders including members of his/her 'family unit' may*



apply for "B" / "DC" site RO dealerships.

- b) Existing unviable SKO dealers of OMCs (individual & partnership firms only) can also apply for RO dealerships (for both "A" / "CC" site & "B" / "DC" site ROs) as per Clause 4 (viii).*

'Family Unit' in case of married applicant, shall consist of individual concerned, his/her Spouse and 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 divorcee, '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).

Oil Company for this purpose would also include Private sector Oil Marketing Companies as per Gazette



notification of 2002 i.e. (1) Indian Oil Corporation Ltd. (2) Bharat Petroleum Corporation Ltd. (3) Hindustan Petroleum Corporation Ltd. (4) Mangalore Refinery and Petrochemicals Ltd. (5) Oil & Natural Gas Corporation Ltd. (6) Reliance Industries Ltd. (7) Essar Oil/Nyara Energy (8) Shell Corporation or any other Oil Marketing Company as defined by the Govt Of India / MOP&NG from time to time.

In addition they should :

- (ii) Not have been convicted for any criminal offence involving moral turpitude/ economic offences (other than freedom struggle).*
- (iii) Not have been a signatory to a dealership / distributorship terminated on account of proven malpractices.*
- (iv) Not be Mentally unsound / totally paralyzed.*

Further,

- (v) The family members (as per definition under multiple dealership norm) of the employees of Oil Marketing Companies (who are employed at the time of*



application) would not be permitted to apply for RO dealership.

(vi) To be eligible to apply for new RO dealership, existing RO/SKO-LDO Dealerships and LPG Distributorships and their “family unit”, as defined under Dealership/Distributorship Selection Guidelines, should not belong to a dealership/distributorship which has been penalized for violation of Marketing Discipline Guidelines under major irregularities within last 5 years (for RO/SKO-LDO Dealerships) and 4 years (for LPG Distributorships) preceding the date of advertisement. Further, in case of any proceedings (Court cases, Show Cause notices, etc.) pending against the dealership/distributorship under critical/major irregularities for violation of Marketing Discipline Guidelines/Dealership Agreement, Control Orders or ESMA, in case selected, the allotment will be conditional and subject to the outcome of such proceedings.

The applicant has to be submit an undertaking to this effect.”

5. The learned counsel for the petitioner has



submitted that the LPG distributorship of the husband of the petitioner has been granted to him under the open category and not under the “B”/“DC” category and the petitioner was inducted as a partner in her husband’s business venture after her marriage, hence, in view of the fact that the petitioner’s husband is not holding a Corporation owned “A”/“CC” site LPG distributorship, developed under the Corpus Fund Scheme or for that matter, under other special category, there is no impediment for grant of distributorship to the petitioner in the Corpus Fund Scheme under the SC category.

6. The learned counsel for the petitioner has referred to a judgment rendered by the Hon’ble Apex Court in the case of **Sunita Gupta vs. Union of India & Others**, reported in (2014) 15 SCC 601, paragraphs no. 8 and 10 whereof are reproduced herein below:-

“8. In our considered viewpoint, this approach of the respondents was erroneous as the application form of the appellant was initially ac-



cepted along with the consent letters of her husband and father-in-law to whom the land belonged and the site visit was completed satisfactorily and she was called in for the interview. After the interview, her name was on the top of the results list and she was shown as selected. She was awarded 35 marks under the head "Land and Infrastructure". Later, the respondents made an about-turn and declared that she was ineligible as she had given the consent letters of the co-owners after the due date and hence, the marks awarded under "Land and Infrastructure" were reduced to zero. Hence, the review order passed by the respondents is bad in law as the appellant was originally found to have fulfilled all the criteria for the land offered which was greater in area than the land required as per the rules and guidelines of the respondent Corporation. The review committee, on a mere technicality, denied the appellant her right to the dealership, after it was previously declared that she was selected for the same. It is evident that the documents the appellant provided at first were seen to be sufficient, and the fact that she chose to give some additional documents to buttress her application cannot be a ground to nullify her appointment, given that Clause 14, "Preference for



applicants offering suitable land” of the HPCL “Guidelines for Selection of Retail Outlet Holders” details that the land owned by the family members, namely, spouse/unmarried children will also be considered subject to the consent of the family member concerned. Since, in this case, the land was owned by her husband and father-in-law, she gave their consent letters along with the application form within the due date. We feel that the appellant has sufficiently met the conditions of the application and the respondent Corporation has erred in subsequently cancelling the appointment on a flimsy technicality and has acted in an arbitrary and unfair manner.

10. For the reasons stated supra, we hold that the respondent Corporation, being an instrumentality of the State has acted unfairly in the present case in cancelling the selection of the appellant for the retail outlet dealership in question and not issuing the letter of intent to her. The appellant has competed for the appointment and was selected fairly after satisfying the requirements. Therefore, we direct the respondents to restore the appointment to the appellant within six weeks from the date of receipt of the copy of this order. The appeal is accordingly allowed on the above terms with no order as to costs.”



7. Per contra, the learned counsel for the Respondent-Corporation, Sri Siddhartha Prasad, has submitted that the petitioner is ineligible as per the multiple dealership norms of DSG dated 24.11.2018, under Clause 10A, Note (a). It has been further submitted that the Field Verification Committee, during the course of verification, found that the husband of the petitioner is an LPG distributor of HPCL, hence, the candidature of the petitioner was cancelled as per the aforesaid guidelines dated 24.11.2018, whereunder it has been provided that any person holding RO dealership of any oil company under "A"/"CC" category / site (corporation owned) cannot apply for second dealership/distributorship under any category. Further, note(a) of Clause-10 (A) stipulates that any person holding retail outlet /LPG distributorship under "B"/"DC" category/site may apply for new RO dealership only under "B"/"DC" category. As far as the present case is concerned, the petitioner is a partner of 50% in an LPG distributorship of HPCL under "B"/"DC" category,



as is evident from the LOI issued by HPCL, thus the petitioner could not have applied for retail outlet dealership under the Corpus Fund Scheme (CFS) i.e for the dealership in question.

8. It has been further submitted by the learned Counsel for the respondent Corporation that as per the Letter of Intent dated 10.03.2014 of HPCL, the husband of the petitioner was selected as LPG distributor and the petitioner is herself 50% partner in the said LPG distributorship allotted to her husband, which is being run under the name and style of M/s Devrani HP Gas Gramin Vitrak.

9. I have heard the learned counsel for the parties and perused the materials on record from which this Court finds that under Clause 10 A. (i) of the aforesaid guidelines pertaining to Selection of Dealers for Regular and Rural Retail Outlets, it has been specifically provided that the applicant or any other member of his / her family unit should not hold a corporation owned "A"/"CC" site RO/ SKO-LDO dealership or RO/SKO-LDO dealerships / LPG



distributorships developed under the Corpus Fund Scheme and other special category and the said Clause 10 A. (i) has further been clarified by Note (a) to the effect that existing "B"/"DC" site RO/SKO-LDO dealers/LPG distributors (other than those distributorships developed under the Corpus Fund Scheme and other Special category) and LOI holders including members of his / her family unit may apply for "B"/"DC" site RO dealerships. In the present case, the petitioner's husband / the petitioner are admittedly LPG distributor under the open category i.e "B" category since the said distributorship has not been developed under the Corpus Fund Scheme, meaning thereby that their existing LPG distributorship falls under "B"/"DC" category, as per the categorization under Clause 3 of the aforesaid guidelines inasmuch as the said LPG distributorship has neither been developed by the Corporation nor falls under the Corpus Fund Scheme nor under the other special category, thus, as per Clause 10 A. (i), Note (a) of the aforesaid guidelines dated 24.11.2018, existing "B"/"DC"



category LPG distributors can apply only for "B"/"DC" site RO dealership and not for "A"/"CC" site i.e. the one under the Corpus Fund Scheme. In the present case, the petitioner had applied for grant of distributorship under the Corpus Fund Scheme, hence, as per Clause 10 A. (i), Note (a) of the aforesaid guidelines dt. 24.11.2018, the petitioner though is not eligible to apply for the same but she is eligible to apply for RO dealership under the category "B"/"DC", since the petitioner's husband / the petitioner do not hold a corporation owned "A"/"CC" site LPG distributorship developed under the Corpus Fund Scheme or under any other special category. Admittedly, in the present case, since the advertisement in question was for allotment of RO dealership under the Corpus Fund Scheme i.e. under the "A"/"CC" site category, the petitioner, has rightly been held to be ineligible for allotment of RO dealership under the CFS category, as aforesaid, especially in view of the fact that at best, the petitioner could be eligible to apply for the "B"/"DC" site category only.



10. Having regard to the facts and circumstances of the case and for the reasons mentioned herein above, this Court finds that the impugned decision of the respondent Corporation, contained in letter dated 18.08.2020, issued by the Respondent No. 2 whereby and whereunder the candidature of the petitioner has been cancelled is in consonance with the guidelines contained in the aforesaid Brochure pertaining to Selection of Dealers for Regular and Rural Retail Outlets dated 24.11.2018, more particularly Clause 10 thereof, hence, I do not find any merit in the present writ petition. Accordingly, the present writ petition stands dismissed being devoid of any merit.

(Mohit Kumar Shah, J)

Ajay/-

AFR/NAFR	AFR
CAV DATE	04.09.2021
Uploading Date	22.01.2022
Transmission Date	NA

