

Item No.8

In The High Court At Calcutta
Constitutional Writ Jurisdiction
(via video conference)

12.07.2021
Ct-24

WPA 11137 of 2021
Lakshmikanta Barik

v.

Indian Oil Corporation Limited & Ors.

Mr. Debabrata Saha Roy
Mr. Subhankar Das
Mr. Neil Basu
... for the petitioner.

Mr. Pushpendu Chakraborty
Mr. Suman Dey
... for IOCL.

The petitioner, an OBC candidate was successful in the selection process for being granted LPG distributorship. The Letter of Intent (LOI) was issued in favour of the petitioner on August 31, 2018. The petitioner was to construct LPG showroom and godown within a period of four months from the date of issuance of the letter.

The commission work ought to have started within a period of four months. As there was not enough progress in the work of construction of either showroom or the godown, a show cause notice was issued to the

petitioner on June 26, 2019. Seven days' time was granted for submission of the reply.

No reply being sent from the petitioner, IOCL cancelled the LOI issued in favour of the petitioner by a letter dated October 22, 2020.

The petitioner is aggrieved by the same. According to the petitioner his mother was seriously ill and ultimately expired on August 29, 2019. As the mother of the petitioner resided elsewhere the petitioner had to do a lot of running and accordingly there was delay in completing the construction work.

It has further been submitted that various licenses from other authorities are required to be obtained for the purpose of proceeding with the distributorship. The same consumed a lot of time. Thereafter in view of the pandemic situation the construction could not be resumed and in the meantime the letter of termination has been issued.

The petitioner submits that he has invested huge amount of money in obtaining the LPG distributorship and also in making the construction. If the LPG distributorship is cancelled at this stage he will be highly prejudiced and he will lose financially.

On the contrary, the learned advocate representing IOCL submits that the LOI was issued way back on August 31, 2018. The petitioner had four

months' time for making necessary construction and for commission of LPG distributorship. Had the petitioner been in any difficulty to construct the godown and showroom as required, he ought to have made necessary representation before IOCL praying for extension of time for completion of the construction. The petitioner never approached IOCL with such prayer for extension of time. The petitioner also did not submit his reply to the show cause notice.

The Company was left with no other option but to terminate his distributorship as there was not enough effort on the part of the petitioner to proceed with the distributorship.

It has further been submitted that the terms and conditions of LOI permits the Company to withdraw the same in the event the conditions mentioned in LOI was not complied.

It appears from the submissions of the parties that LOI was issued on August 31, 2018. The petitioner had four months' time to make the necessary construction for the purpose of commission of LPG distributorship. The petitioner failed to do so. He also neglected to reply to the show cause notice. The Company acted in accordance with their guidelines and issued the letter of termination.

However, keeping in mind that the petitioner got involved in taking care of his ailing mother and he unfortunately lost her in August 2019 and thereafter in view of the on going pandemic the Court feels that one more opportunity should be granted to the petitioner to impress IOCL that he has taken due efforts to continue with the distributorship.

In view of the above, the instant writ petition is disposed of by granting liberty to the petitioner to file a comprehensive representation before the concerned authority of IOCL specifically indicating the nature of construction that has been completed.

In the event, such a representation is made within a period of ten days from along with the supporting documents the men and agents of the IOCL shall make a physical inspection of the godown and the showroom and thereafter take a decision as to whether to withdraw the letter of intent or to allow some more time to the petitioner to complete the construction so that the commission of the LPG distributorship can be started.

The IOCL shall take a decision in the matter within a fortnight from the date of receipt of the representation from the petitioner. The IOCL shall pass a reasoned order and communicate the same to the petitioner immediately thereafter.

The writ petition stands disposed of.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

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(Amrita Sinha, J.)