

Court No. 24

12.07.2021

(Item No. 9)

(AB)

**W.P.A 11140 of 2021
(Via Video Conference)**

Rupali Sau

Vs

Indian Oil Corporation Limited & Ors.

Mr. Debabrata Saha Roy

Mr. Pingal Bhattacharyya

Mr. Subhankar Das

Mr. Neil Basu

..... for the petitioner

Mr. Puspendu Chakraborty

Mr. Suman Dey

...for Indian Oil Corporation Ltd.

The petitioner is an OBC candidate. She was successful in the selection and awarded L.P.G. distributorship by IOCL. By a communicating letter dated 4th November, 2018 the petitioner was intimated that she was successful in the draw of lots for selection of L.P.G. Distributor. She was requested to deposit a sum of Rs.30,000/- only. Certain documents were sort from her for verification. After verification, by a communicating letter dated 28th May, 2019, the Letter of Intent (LOI) was issued in her favour. The said Letter of Intent contained certain conditions. The petitioner was to construct a showroom and godown after taking approval from IOCL and complete the same within a period of four months from the date of issuance of the LOI. The petitioner was to make all out efforts to commission the LPG distributorship within four months from the date of issuance of LOI.

By a communicating letter dated 28th May, 2019 IOCL requested the Chief Secretary, Government of West Bengal to issue suitable instruction to the concerned department to expedite in giving necessary clearance for early commission of the distributorship. The Branch Manager of the Bank was requested to consider financial assistance as per the policy to the Distributor select for expediting commission of the facilities and operation of the distributorship.

IOCL by a further letter dated 28.05.2019 informed the petitioner that the management has approved the name and style of the proposed distributorship as “Sasati Indane Gramin Vitrak” and licenses for the distributorship ought to be obtained in the aforesaid approved name.

By another letter dated 15.07.2020 the petitioner was intimated that as there was failure to make any significant progress towards commissioning of LPG distributorship, she was advised to show cause as to why the LOI issued in her favour will not be withdrawn. The petitioner was directed to submit the reply within seven days.

The petitioner claims that by a letter sent through post on 12.08.2020 the petitioner intimated the Senior Area Manager of IOCL that she was suffering from Typhoid and prior to that due to the lockdown she was facing terrible problem and

accordingly she requested for some time to overcome her drawback.

By a communication dated 17.11.2020 the petitioner was intimated that IOCL has cancelled the LOI. It was further intimated that the money deposited with the Corporation stands forfeited as per the terms and conditions of LOI.

The petitioner is aggrieved by the same and has filed the instant writ petition praying for setting aside the letter of cancellation.

It is the case of the petitioner that the construction of the show room is practically over and the godown has also been constructed to a considerable extent, but in view of the pandemic situation the construction was not completely over.

It has been submitted that the petitioner has invested huge sum of money in obtaining the distributorship and for making the construction. The petitioner will be highly prejudiced and will face immense financial loss if the distributorship is cancelled at this stage.

The learned advocate representing IOCL submits that in terms of the Letter of Intent the petitioner was supposed to construct the godown and the showroom within a period of four months of the issuance of the LOI. The LOI was issued on 28.05.2019 and the construction ought to have been

over within September 2019. The petitioner did not make sufficient effort in making the construction.

It has been submitted that the men and agents of IOCL visited the spot and have taken photographs to show that there has not been any significant progress in construction of either the godown or the show room. No request has been forwarded by the petitioner to IOCL praying for extension of time for completing the construction.

It has also been contended that till the date of issuance of the notice to show cause on 15.07.2020, there was no communication from the end of the petitioner. The petitioner also failed to submit the reply to the show cause within the stipulated period of seven days and submitted the same belatedly by letter dated 12.08.2020. In the said letter also there is no disclosure that the construction has been made as required. IOCL has rightly cancelled the LOI as per the guidelines and it is the responsibility and duty of IOCL to conduct fresh lots for selection of candidates.

It has further been submitted that the petitioner has lost her right to continue with the distributorship as she has failed to comply with the terms and conditions as mentioned in the LOI.

Upon hearing the submissions made on behalf of the parties, it appears that the petitioner was successful in obtaining the LPG distributorship, but

she did not take proper steps to comply the conditions as mentioned in the LOI. LOI issued on 28.05.2019 categorically mentioned that the godown and the showroom should be constructed within a period of four months and the petitioner ought to take all efforts to commission the LPG distributorship within four months.

Had there been any difficulty on the part of the petitioner to complete the construction work within the prescribed time limit, it was the duty of the petitioner to intimate the same to IOCL with a prayer for extension of time for completion of construction work. The same has not been done by the petitioner.

In fact, till the notice to show cause was issued for withdrawal of LOI on 15.07.2020 there was no communication from the end of the petitioner. The reply to the show cause was also forwarded long after the time prescribed for submission of reply.

IOCL engaged its men and agents to inspect the spot and take photographs wherefrom the Company has come to the conclusion that enough progress has not been made for making the construction and as such the LOI has been cancelled.

It appears from the LOI that IOCL had the authority to withdraw the LOI if it was found that the progress made towards commission of LPG distributorship is not to their satisfaction. In such a

situation the LOI was liable to be withdrawn along with the forfeiture of 10% security deposit. IOCL have acted in accordance with the terms and conditions as mentioned in the LOI.

As it has been fervently pleaded by the petitioner that in view of the pandemic situation enough progress could not be made with the construction, the Court feels that one more opportunity may be granted to the petitioner to impress upon IOCL that she has taken enough efforts to complete the construction work of the showroom and the godown.

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 date along with the supporting documents, the men and agents of IOCL shall make a physical inspection of the godown and the showroom and thereafter take a decision as to whether to withdraw the LOI or to allow some more time to the petitioner to complete the construction so that the commission of the LPG distributorship can be started soon thereafter.

IOCL shall take a decision in the matter within a fortnight from the date of receipt of the representation from the petitioner. 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 supplied to the parties upon completion of usual legal formalities.

(Amrita Sinha, J.)