

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

BEFORE:

The Hon'ble Mr. Justice Ravi Krishan Kapur

WPA 18400 of 2019

Tanusree Mondal

Vs.

Indian Oil Corporation Limited and Ors.

For the petitioners : Mr. Kalyan Bandyopadhyay
Mr. R. A. Agarwala
Mr. Ramesh Dhara
Mrs. Nibedita Pal
Mr. Ananda Gopal Mukherjee

For the State : Mr. Amit Kr Nag
Ms. Hera Nafis

Heard on : 28.01.2021

Judgment on : 21.04.2021

Ravi Krishan Kapur, J.:

1. The petitioner assails the issuance of a letter of intent in favour of the respondent no.6 by the Indian Oil Corporation Limited (IOC) for a LPG Distributorship in the District of Murshidabad.
2. The brief facts of this case are that the IOC published an advertisement in the "Anandabazar Patrika" on 31 August, 2017 inviting online applications for appointment of LPG distributorships in various locations throughout the State of West Bengal. The last date of submission of the application form was 3 October, 2017 which was subsequently extended to 18 October, 2017. The advertisement clearly

spelt out that all applications shall be strictly guided by the terms of the selection brochure available in the website of the respective oil companies. There was a further stipulation in the advertisement that if any incorrect or false statement is found in any application the same would result in rejection of the application.

3. Pursuant to the aforesaid application, the petitioner submitted her application on 18 October, 2017 in the prescribed format alongwith all necessary details.
4. The respondent No.6 also submitted her application on 24 September, 2017. The application form submitted by the respondent no.6 mentioned the date of the registered lease deed as 21 September, 2017. Thereafter, a lucky draw was conducted on 30 May, 2018 among the eligible candidates wherein the respondent No.6 was declared to be the successful candidate and was asked to submit all necessary documents for scrutiny. Subsequently, upon scrutiny and field verification, the respondent no 6 was issued a letter of intent by the IOC.
5. The petitioner challenges the selection of the respondent no.6 on the ground that respondent no.6 had fraudulently and incorrectly mentioned the registration date of the lease deed as 21 September 2017, whereas the lease deed was actually registered on 11 October 2017. Although the petitioner made a representation dated 26 August, 2019 to the IOC to have the aforesaid fact considered before the issuance of the letter of intent, the IOC without considering such

representation issued the letter of intent in favour of the respondent no 6.

6. It is contended on behalf of the petitioner that in terms of Clause 26 of the brochure it was obligatory on the part of the IOC to reject the application of the respondent no.6 which contained false and incorrect statements. It is further alleged that the land offered by the respondent no.6 was classified as Aman which evidenced that contrary to the terms of the advertisement the respondent no 6 was not in possession nor in a position to construct a godown on the date of submission of her application. It is further alleged that the respondent company relaxed the conditions as envisaged in the brochure for the respondent no.6 without any reason. Hence, it is submitted that the selection of the respondent no.6 should have been cancelled on the ground that she had made false and incorrect statements in her application form.
7. It is submitted on behalf of the IOC that all terms and conditions of the advertisement have been strictly adhered to in the instant case. It is further alleged that it is often found that at the time of filing applications, candidates make mistakes which ought to be ignored to reduce the number of rejections in the process of selection. It is also alleged that the respondent no 6 complied with the prescribed eligibility criteria set out in the brochure and was chosen through an open draw which was conducted on 30 May, 2018. Thus, there has been no special treatment meted out to the respondent no.6. It is further alleged that the classification of the land offered by a

prospective applicant can only be considered at the time of appointment of distributorship by which time the proposed candidate would need to change the classification from the appropriate Authority to a suitable classification as required in the brochure. It is further submitted that respondent no.6 had submitted two lease deed executed on the date when she had filed her application. Moreover, although the lease deed was executed on 15 September, 2017, the deeds were subsequently registered on 20 September, 2017 and 11 October, 2017 respectively. The aforesaid dates clearly indicate that the respondent no.6 had the lease deeds registered prior to the last date of submission of inviting applications and hence she was found to be eligible and was lawfully considered.

8. I have heard the parties. I have also considered the submissions made on their behalf. Significantly, I find from the orders that despite repeated service effected on the respondent no.6, the respondent no.6 chose not to appear in these proceedings.
9. Clause 26 of the brochure and also clause 5(ga) of the advertisement (published in Bengali) provides as follows:

“If any statement made by the applicant in the application or in the documents enclosed therewith or subsequently submitted in pursuance of the application at any stage is found to have been suppressed/ misrepresented/incorrect or false affecting eligibility, then the application / candidature is liable to be rejected without assigning any reason.”

I am of the view that the application form in column 4 required the date of registration of sale deed/registered lease deed/date of mutation. The

respondent no.6 had submitted her application form on 24 September, 2017 and mentioned the date of registration as 21 September, 2017. I am of the view that the purpose and object of the query in serial no.4 of the application form was to ascertain whether a prospective applicant had a premises or a plot of land which has been duly registered on the date of submission of his or her application form. I find from the lease deed that the same had been presented on 25 September 2017 for registration before the District Sub-Registrar, Murshidabad and was ultimately registered on 11 October 2017 by the District Sub-Registrar, Murshidabad. Thus, it appears that at the time of submission of application the lease deed of the land for the proposed godown by the respondent no.6 had not been registered. Once this fact is indisputable and incontrovertible, I am of the view that it becomes evident that the respondent no.6 had intentionally and knowingly made a false and incorrect statement in the application form submitted by her and this ought to affect her eligibility criteria in the selection process.

10. I am also of the view that if a candidate is found to have made a false statement or misstatement then under no circumstances can he or she be eligible or be considered. I do not find that the brochure provides for any relaxation whereby candidates were at liberty to make corrections or changes in the application form once prepared and submitted during the process of selection. I am of the view that the purpose of seeking information on a fact which has a relevant and material bearing on the selection of a prospective candidate cannot be circumvented in such a casual and cavalier manner by the respondent authorities [B.R.

Chowdhury vs. Indian Oil Corpn. LTD. & Others (2004)2 SCC 177 @ para 11, Kendriya Vidyalaya Sangathan & Ors. vs. Ram Ratan Yadav (2003)3 SCC 437].

11. Accordingly, I find that the particulars furnished by the respondent no.6 that the land was registered in her name on 21 September, 2017 when actually the land had been registered on 11 October, 2017 is a false statement which is apparent from the face of the records. I am also of the view that although by the time the field verification was conducted the land had been registered in the name of the respondent no.6 does not absolve the respondent no.6 from the fact that she had knowingly and intentionally made a false and incorrect statement in her application form. I also do not find any substance in the contention of the IOC that since the last date of submission of the application form had been extended till 18 October, 2017 any anomaly did not warrant rejection of the application of the respondent no.6 since she became eligible before the last date of submission of the application.
12. I am fully mindful that a Writ Court ordinarily does not interfere with the decision of an authority. However, in the facts and circumstances of the instant case I find that the respondent IOC has acted arbitrarily and unfairly in accepting the application of the respondent no.6 despite her having made false and incorrect statements. Accordingly, I am of the view that the application of the respondent no.6 ought to have been rejected and the letter of intent issued in her favour should stand cancelled and withdrawn. Consequently, the IOC is directed to take

steps afresh for appointment of a new distributor in the aforesaid area in accordance with law.

13. Accordingly, WPA No 18400 of 2019 stands allowed.
14. Urgent certified photostat copies of this judgment, if applied for, be given to the parties upon compliance with all necessary formalities.

(Ravi Krishan Kapur, J.)