

Item No.316

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

13.09.2021
Ct-24

WPA 8206 of 2020

Shri Sasi Biswas

v.

Union of India & Ors.

Mr. Shamim ul Bari

... for the petitioner.

Ms. Hasi Saha

... for the respondent no. 1.

Mr. Rabiul Islam

... for the respondent no. 5.

Mr. Biswaroop Bhattacharyya

Mr. Prasun Mukherjee

Mr. Deepak Agarwal

... for HPCL.

The reasoned order communicated to the petitioner by a forwarding letter dated September 17, 2020 issued by the Deputy General Manager- LPG Region, Kolkata LPG Regional Office is under challenge in the instant writ petition.

The hearing was conducted pursuant to an order dated August 19, 2020 passed by the Hon'ble Division Bench of this Court in MAT 514 of 2020, CAN 5118 of 2020, CAN 5119 of 2020, CAN 5122 of 2020.

The respondent authorities have opined that insofar as the land for godown is concerned the

registered lease deeds refer to a plot of land which has not been partitioned, hence the lands offered for godown by the petitioner and the private respondent appears to be the same. However, as the original plot is big enough to accommodate more than one godowns of minimum specified dimensions and the stated boundaries in the lease deed manifest the two plots of land of the petitioner and the private respondent as different and adjoining, there is a possibility of two offered plots being different and distinct.

The candidature of the petitioner however stood rejected as the land for showroom which has been offered by the petitioner and the private respondent are exactly the same and identical.

In the reasoned order the schedule of the property which has been offered by the petitioner and the private respondent for showroom has been set out.

It has been recorded that from the schedule it is clear that both the writ petitioner and the private respondent offered the same plot of land having the same dag number, khatian number, holding number and the same boundary.

The authority relied upon clause 8(n) of the Unified Guidelines for Selection of LPG Distributorship and rejected the prayer of the petitioner.

According to the petitioner the schedule of the lease deed offered by the petitioner and the private respondent in respect of the showroom is same because that is the description of the land where a three storied building is standing.

The communication of the Company dated January 24, 2020 made by the DGM-LPG Region to the petitioner mentions that upon scrutiny and field verification of the information submitted by him in his application, variance has been observed, wherein it is recorded that the land offered by him for godown and showroom is the same piece of land offered by the private respondent.

The petitioner has specifically contended that at the time of field verification, the three storied building was standing on the scheduled land and the authorities are very much aware of the structure that has been constructed over the piece of land, schedule of which is set out in the reasoned order.

According to the respondents as in the lease deed that has been submitted by the petitioner and the private respondent there is no mention of any construction and on the contrary the same mentions of future constructions, accordingly, the plea of the petitioner that the construction was standing in the said plot of land cannot be taken to be true.

The petitioner has annexed a picture of a structure, which allegedly is standing on the said plot of land.

As it appears that the authorities are already aware that a structure is standing on the plot of land offered by the petitioner to be used as showroom, accordingly, the instant writ petition is disposed of by directing the concerned authority of the Company to make a further inspection and verify as to whether there is space for construction of two separate showrooms as per the required dimension of the Company.

In the event, there is enough space for construction of two separate showrooms of specified dimensions, then it has to be taken that the two showrooms were offered separately by two applicants.

If the authorities are of the opinion that there isn't enough space for construction of two separate showrooms by two separate applicants, then the authorities will proceed as if the same plot of land was offered by both the candidates and pass necessary order in the matter.

If the authority is satisfied with the structure offered for the purpose of showroom, then the authority shall take necessary consequential steps to proceed with the matter accordingly.

The inspection shall be conducted upon giving prior notice to the petitioner at the earliest, but positively within a period of ten days hereof.

The impugned order of rejection is accordingly set aside.

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.)