**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

CWP- 27061-2019 (O&M)

Date of Decision : January 15th , 2021

Sarabjit Singh

.... PETITIONER(S)

VERSUS

Union of India and others

.... RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. Jagdish Manchanda, Advocate, with
Mr. Nischal Chetanya Manchanda, Advocate, for the petitioner.
Mr. Ankur Sharma, Senior Panel Counsel, for Union of India-respondent No.1.
Mr. Ashish Kapoor, Advocate, for respondents No.2 to 4.
Mr. R.S. Chauhan, Advocate, for respondent No.5.

...

Sanjay Kumar, J.

Award of the LPG Distributorship of the Indian Oil Corporation Limited (for short, 'the IOCL') at Pundri in District Kaithal, State of Haryana, in favour of the 5th respondent under the Scheduled Caste reservation category is the cause for grievance.

The petitioner, an unsuccessful applicant, initially assailed the letter dated 02.09.2019, whereby the IOCL rejected his complaints, as well as the Letter of Intent dated 05.09.2019 issued by it to the 5th respondent. Thereafter, by way of his amended prayer, he also assailed the order dated 26.06.2020 of the IOCL rejecting his later complaint dated 09.06.2020.

The petitioner's challenge is based on his claim that the 5th respondent was ineligible to be considered for allotment of the subject distributorship as his offer of lands for the proposed godown and showroom was not in conformity with the prescribed norms.

The subject distributorship was advertised on 20.11.2013 under Scheduled Caste category and the last date for submission of the applications was 20.12.2013. It appears that the process relating to award of this distributorship and several others was delayed due to factors beyond the control of the IOCL. Ultimately, 12 applicants were found eligible and were short-listed for the draw for selection. The 5th respondent emerged successful in the draw held on 24.01.2019 and was declared selected. 7 out of the 12 short-listed applicants were present at the time of the draw.

Thereupon, the petitioner submitted complaint dated 18.02.2019 (received on 22.02.2019) alleging that the 5th respondent was not entitled to the allotment of the distributorship as his candidature did not conform to the guidelines. The said complaint, along with the petitioner's later complaint dated 10.04.2019 (received on 18.04.2019), were rejected by the IOCL, *vide* the letter dated 02.09.2019. Letter of Intent dated 05.09.2019 was then issued to the 5th respondent, confirming the offer of the distributorship, subject to fulfillment of conditions.

Having filed this writ petition in September, 2019, the petitioner again made a complaint to the IOCL on 09.06.2020 (received on 12.06.2020) reiterating his allegation that the 5th respondent was ineligible for award of the subject distributorship as per the guidelines. This complaint was considered and rejected by the IOCL, *vide* order dated 26.06.2020. Thereafter, the Letter of Appointment was issued by the IOCL in favour of the 5th respondent on 29.06.2020 and the LPG Distributorship was commissioned by the 5th respondent on the same day, under the name and style of M/s Rudraditya Indane.

Before examining the contentions of the petitioner, it would be appropriate to take note of the norms relevant to this case, prescribed by the Ministry of Petroleum and Natural Gas, Government of India, *vide* the 'Guidelines on Selection of Regular LPG Distributorships applicable to all Locations Advertised/Re-advertised from May 2013 onwards'. These guidelines provide the eligibility criteria to meet the minimum requirements of educational qualifications, finance and infrastructure for operating a LPG distributorship. They do not provide for a marks-based evaluation or interview for the selection, as the same is to be carried out by a transparent system of draws and all applicants meeting the eligibility criteria qualify to participate in such draws.

Clause 9 of the guidelines deals with 'Eligibility Criteria for Individual Applicants'. Sub-clause (vii) of Clause 9.1 deals with the requirements of the LPG cylinders storage godown. To the extent relevant, it reads as under:-

> *"vii. Should own as on the last date for submission of application as specified in the advertisement or corrigendum (if any) :*
>
> *a plot of land of minimum dimensions 25 M x 30 M*

(within 15 km from municipal/town/village limits of the location offered in the same State) for construction of LPG Godown for storage of 8000 Kg of LPG in cylinders. The plot of land for construction of godown not meeting the minimum dimensions of 25 M x 30 M will not be considered.

Or

a ready LPG cylinder storage godown (within 15 km from municipal/town/village limits of the location offered in the same State) of 8000 Kg capacity.

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In case an applicant has more than one suitable plot for construction of godown for storage of minimum 8000 Kg of LPG in cylinders or ready LPG cylinder storage godown as on the last date for submission of application as specified in the advertisement or corrigendum (if any), the details of the same can also be provided in the application."

Sub-clause (viii) of Clause 9 deals with the requirements of the LPG showroom and it reads thus:-

"viii Own a suitable shop of minimum size 3 metre by 4.5 metre in dimension or a plot of land for construction of showroom of minimum size 3 metre by 4.5 metre as on the last date for submission of application as specified in the advertisement or corrigendum (if any) at the advertised location or locality as specified in the advertisement. It should be easily accessible to general public through a suitable approach road.

In case an applicant has more than one shop of minimum size 3 metre by 4.5 metre in dimension or a *plot of land for construction of showroom of minimum size 3 metre by 4.5 metre as on the last date for submission of application as specified in the advertisement or corrigendum (if any) at the advertised location or locality as specified in the advertisement, the details of the same can also be provided in the application.*

Reference vii & viii above.

'Own' means having ownership title of the property or registered long lease (minimum 15 yrs) in the name of applicant/ member of "Family Unit" (as defined in multiple dealership/distributorship norm of eligibility criteria) as on last date for submission of applicant as specified in the advertisement or corrigendum (if any). In case of ownership/co-ownership by family member(s) as given above, consent in the form of a Notarized affidavit from the family member(s) will be required.

In case the land is jointly owned by the applicant/ member of "Family Unit" (as defined in multiple dealership/distributorship norm) with any other person(s) and the share of the land in the name of applicant/ member of the "Family Unit" meets the requirement of land including dimensions required, then that land for godown/showroom will also qualify for eligibility as own land subject to submission of 'No Objection Certificate' in the form of a Notarized Affidavit from other owner(s)."

The 'Brochure on Guidelines for Selection of Regular LPG Distributors' brought out by the IOCL in August, 2013, reiterated the same requirements under Clauses 6.1 (vii) and 6.1 (viii) respectively.

The petitioner's claim is that the 5th respondent did not make an offer which was in keeping with the aforestated norms insofar as the lands offered by him for the godown and showroom were concerned. According to him, the land offered by the 5th respondent for housing his proposed LPG showroom was leased by him under Lease Deed No.3793 dated 18.12.2013 but it was executed by one Urmila, the holder of only 1/144th share in the jointly-owned land admeasuring 7 kanals 4 marlas. He further alleged that the land offered by the 5th respondent for his proposed LPG godown was leased under Lease Deed No.2043 dated 17.12.2013, but it was executed by the owner of a 40/5386th share in the jointly-owned land admeasuring 269 kanals 6 marlas.

The petitioner claimed that the possession of these leased lands was never transferred to the 5th respondent and he never furnished the consent of the co-owners. Further, the 5th respondent thereafter secured a new lease under Lease Deed No.4013 registered on 04.02.2019 for the purpose of his LPG showroom. The petitioner asserted that this lease was from 10.01.2018 to 09.01.2033 and was not to be taken into consideration as the applicant was to have a valid lease deed for 15 years as on the last date of submission of the applications, i.e., 20.12.2013.

The petitioner also alleged that the 5th respondent was permitted by the IOCL to construct his LPG godown at a site, other than that initially proposed by him, situated at Village Sanch in Tehsil Pundri. He asserted that this new site, which had been accepted by the IOCL, was beyond the distance of 15 Kms. from Pundri limits. He claimed that by one route (Habri-Barsana), the distance was 16 Kms. while by another route (Teontha-Rasina), it was 17 Kms.

As already stated earlier, award of the subject distributorship was delayed due to certain extraneous reasons. This delay was perhaps the reason why the 5th respondent had to alter his offer insofar as the lands for his proposed godown and showroom were concerned.

It may be noted that Clause 17.6 and Clause 17.7 of the guidelines give elbow room to the IOCL to accept land other than that mentioned by an applicant in his application. These clauses are extracted hereunder :

> *"17.6 During the FVC process, in case the land mentioned by the applicant for godown/showroom in his application is not suitable and if the applicant is having any alternate land in his name/members of the Family Unit as per norms with date of registration on or before the last date for submission of application as specified in the advertisement or corrigendum (if any), the same can be considered. However, the same if considered has to be duly verified for its suitability during the FVC.*
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> *17.7 In case the land mentioned in the application is suitable as per the criteria given in the text of advertisement/application and the candidate has an alternate plot of land which is more suitable for construction of godown/showroom, then the selected candidate can be allowed to construct the facilities at*

alternate plot of land. However, the same if considered has to be duly verified for its suitability during the FVC."

It may also be noted that Clause 14 of the guidelines prescribes the methodology for scrutiny of applications. It provides that the Application Scrutiny Committee, consisting of one officer nominated by the State Head/Regional Head/Zonal Head of the IOCL, should scrutinize the applications based on the information furnished therein by the applicants and prepare the list of eligible/ineligible candidates for the draw.

Be it noted that in **Bikramjit Singh vs. Hindustan Petroleum Corporation Ltd. and another [2018 (1) R.C.R. (Civil) 972]**, a learned Judge of this Court held that the eligibility of a candidate in terms of the LPG selection guidelines has to be seen on the last date of the application. Therefore, at the stage of such scrutiny, the actual details and ground realities of the lands offered by an applicant for the showroom and godown would not be verified. It is only thereafter that the Field Verification of Credentials (FVC) is undertaken as per Clause 17 of the guidelines.

It is in this milieu that the contentions of the petitioner had to be verified and decided by the IOCL.

The order dated 26.06.2020 passed by the IOCL would suffice to demonstrate as to how the petitioner's objections were dealt with. Therein, apropos the petitioner's contention as to the land offered by the 5th respondent for the showroom, the IOCL noted that the Lease Deed bearing No.3793 dated 18.12.2013, pertaining to the land offered for the showroom, was within the zone of eligibility as it was executed prior to the last date for submission of applications, viz., 20.12.2013. The IOCL further noted that this lease was surrendered by the 5th respondent under Surrender Deed No.3891 dated 09.01.2018 and a fresh lease for 15 years was secured by him for the very same land, *vide* Lease Deed No.4013 dated 04.02.2019. Further, as the land was jointly owned, he submitted the No Objection Certificates of all the co-sharers along with details of the demarcated land. These details were verified from the Jamabandi for the year 2015-16 and found to be accurate.

As regards the petitioner's contention about the land proposed by the 5th respondent for the godown, the IOCL stated that Lease Deed No.2043 dated 17.12.2013 pertaining to the land at Village Pharal, mentioned by the 5th respondent in his application, was worthy of consideration as it was executed prior to the last date of submission of the applications, viz., 20.12.2013. The IOCL noted that the 5th respondent had surrendered the lease of this land at Village Pharal on 27.01.2015 and by letter dated 08.02.2019, it had called upon the 5th respondent to provide an alternative land for construction of the LPG godown. During the FVC, the 5th respondent offered his own land situated in Khewat No.479, Khatoni No.625, Khasra No.135//17 (7-9) at Village Sanch, Tehsil Pundri, District Kaithal. According to the IOCL, this land is situated at a distance of 14 Kms. from the limits of Pundri. The IOCL addressed letter dated 18.02.2019 to the Tehsildar, Tehsil Pundri, District Kaithal, with regard to verification of this land and to confirm whether the 5th respondent was in possession and ownership of this land on and before 20.12.2013 and still remained in possession. In response thereto, the Tehsildar addressed reply dated 20.02.2019 stating that, upon spot-verification and perusal of the record, it was found that the 5th respondent was the owner of 21 kanals 9 marlas in Khewat No.479 in Village Sanch and that his name was entered in the record in 2012-13 itself. He further stated that the Jamabandi of the year 2017-18 still showed his name, in proof of his continuing possession.

Though the 5th respondent initially did not offer any alternative land and restricted his application to offering one leased land for the showroom and one leased land for the godown, the fact that the subject distributorship, which was advertised as long back as in November, 2013, remained in limbo till the year 2019, cannot be ignored. That being so, an applicant cannot be bound or tied down by the offer made by him long ago. In the event he had offered land which was as per the eligibility norms at that point of time but he is unable to provide the same land at this late point of time, it cannot be held against him to invalidate his very eligibility. All the more so, when the lands initially offered were procured on lease basis, as in the case on hand.

It is not the case of the petitioner that the land initially offered by the 5th respondent did not satisfy the physical requirements prescribed by the guidelines. That being so, substitution of the lease deed for the very same land offered by the 5th respondent for the showroom is not fatal, as his eligibility in that regard as on 20.12.2013, the last date for submission of the applications, is not in doubt.

In **Durgawati Devi vs. Union of India and others [Special Leave Petition (C) No. 37479 of 2016, decided on 04.10.2019]**, the Supreme Court affirmed that the terms and conditions prescribed for award of LPG distributorships should not be relaxed by the High Court in exercise of power under Article 226 of the Constitution. However, this Court is only giving effect to the guidelines that vest the IOCL with certain discretionary powers, in the light of the peculiar facts of this case, and is not proposing to relax any norms. This decision is therefore of no avail to the petitioner.

In **Shri Baby P. vs. M/s. Hindustan Petroleum Corporation Limited [2016 SCC OnLine Kerala 14322]**, the Kerala High Court affirmed that documents submitted after the deadline fixed for submission of the applications should not be entertained and if a party is allowed to supplement any documents after the deadline, it would have an impact upon the rights of other applicants. This decision also does not further the case of the petitioner, as the long delay in the processing and award of the subject distributorship warrants and justifies exercise of discretion by the IOCL under Clauses 17.6 and 17.7 of the guidelines.

Further, though the petitioner chose to make loose allegations to the effect that the officials of the IOCL had colluded with the 5th respondent, there is no material produced in support of this unjust attack. The action of the IOCL in dealing with the application of the 5th respondent and in the award of the subject distributorship is above board in all respects.

On the above analysis, this Court finds that though the 5th respondent was permitted to substitute the land offered by him for the godown and also substitute the lease deed in relation to the very same land that was initially offered by him for the showroom, it does not have the effect of transgressing the norms prescribed in the guidelines. The discretion vesting in the IOCL, under Clauses 17.6 and 17.7 of the guidelines, to entertain the offer of alternative land would come into play owing to the long delay in the processing of the award of the distributorship at Pundri, which was initiated as long back as in the year 2013. No cause is made out to interfere with the award of the distributorship in favour of the 5th respondent, which has already been commissioned.

The writ petition is therefore devoid of merit and is accordingly dismissed.

No order as to costs.

January 15th, 2021 (Sanjay Kumar)
Kang Judge

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No