

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.16587 of 2021

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Nawal Kishore Mandal, Son of Dhanpat Mandal, Resident of Ward No. 14
Indira Nagar, Housing Colony, P.S. - K.Hat, District - Purnea (Bihar).

... .. Petitioner/s

Versus

1. The Indian Oil Corporation Limited through its Chairman, Indian Oil Corporation Limited, New Delhi.
2. The Executive Director, Indian Oil Corporation Limited, 5th floor, lok Nayak Bhawan, Dak Bunglow Chouraha, Patna - 800001.
3. The Division Retail Sales, Begusarai Division, Divisional Office, Barauni Oilb Refinery, Begusarai (Bihar).
4. The Chief Divisional Sales Manager, Indian Oil Corporation Limited, Begusarai Division Office, Begusarai (Bihar).
5. The State of Bihar, through Chief Secretary, Govt. of Bihar, Patna.
6. The District Magistrate, District - Purnea.
7. Sagina Kumari, Wife of not known to the petitioner Division Retail Sales, Begusarai Division, Divisional Office, Barauni Oil Refinery, Begusarai (Bihar).

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dinu Kumar, Advocate

Ms. Ritika Rani, Advocate

For the Respondent/s : Mr. Md. Khurshid Alam, AAG-12

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CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT
(Per: HONOURABLE THE CHIEF JUSTICE)

Date : 17-08-2022

The following issue arises for consideration:-

- (i) Whether non-furnishing of a complaint in a case where its subject matter is admitted, constitutes violation of principles of natural



justice, materially affecting the proceedings?

2. This writ petition under Article 226 of the Constitution is filed against cancellation of letter of intent issued in favour of the petitioner vide Reference NO. M/2019/IN000215/BH/000009/2304/00002, dated 09.04.2019 as contained in Annexure-7 for the Plot of land in Khata No. 46(K), Khasra No. 248, Mauze- Roskakoskagarh, Block- K, District -Purnea, admeasuring 1760 sqm (approx) (frontage -40 m, depth-46m) vide order dated 22-07-2021 issued under the signature of DRSH, Begusarai Divisional Office as contained in Annexure-10 by which candidature of the petitioner for regular retail outlet location between KM stone 156 and KM stone 161 on Sarsi K. Nagar Road on NH-107 District- Purnea under open category.

3. It is further prayed that the respondent be refrained from issuing letter of intent to respondent no.6, namely Sagina Kumari, for the retail outlet in question in accordance with advertisement dated 25.11.2018.

4. The facts of the present case are as follows:-

5. An advertisement dated 25.11.2018 (Annexure-1) was issued by the respondent-Indian Oil Corporation for Retail Outlets Dealerships at a total 1554 locations. The conditions to be fulfilled were provided in Selection Brochure dated 24.11.2018. The eligibility criteria in the said Brochure are contained in Clause 4. As mentioned in the counter affidavit filed by one Mr. Vibhash Kumar Sinha, Senior Manager (Retail Sales) Begusarai Divisional Office, it reads: "The same piece of land cannot be offered by more than one



applicant for a particular RO location against an advertisement. In case more than one application is received offering the same piece of land, all such applications would be rejected and allotment, if made, would be liable for cancellation.”

6. The writ petitioner made an application dated 23.12.2018 (Annexure-2) for issuance of letter of intent as according the above specified particulars enclosing two sale deeds dated 09.10.2014 and 21.04.2017 indicating the particulars of the land, thereby fulfilling the conditions mentioned. The wife of the petitioner also made an application for issuance of LOI dated 22.12.2018 (Annexure-3).

7. The bid was held on 20.02.2019 in which eight applicants participated and after completion of the said process, the petitioner was selected as indicated by result dated 20.02.2019 itself (Annexure-5). The petitioner then supplied, on directions of the Divisional Office, Indian Oil Corporation, Begusarai to furnish documents to further the process. Such documents were supplied and the land mentioned by the petitioner was verified by the Land Evaluation Committee of the IOCL. The letter of intent dated 09.04.2019 (Annexure-7) was issued to the petitioner.

8. It is submitted that the IOCL wrote a letter to the learned District Magistrate, Purnea as also the NHAI for issuance of no objection certificate in favour of the petitioner. A number of other departments including Fire Department, Public Works Department etc. have issued required NOCs.



Further, it is stated that even after passage of two years from the date of LOI, the learned District Magistrate, Purnea has not issued the requisite NOC.

9. Undisputedly, the petitioner and his wife Smt. Baby Kumari were called by DRHS, Begusarai and made aware of a complaint filed against them. Vide letter dated 20.07.2021 (Annexure-9) addressed to DRSH, Begusarai Divisional Office, it is stated by both the petitioner and his wife that “we are totally unaware that same plot can not be offered by more than one applicant and understand that LOI has been issued on one of the two offered plots and it is as per guidelines of the Corporation. And hence it is requested not to cancel the LOI issued in favour of myself (Nawal Kishore Mandal) since substantial investment has been made by me in obtaining the NOC/ statutory approval from the concerned departments/authority, NH NOC has been obtained and NOC from DM/ Purnea is in final stage. We also request to provide the detail of complaint for our own satisfaction.”

10. A letter dated 22.07.2021 by DRSH, Begusarai Divisional Office (Annexure-10) was issued, which mentioned the particulars of the complaint received dated 05.07.2021, post which the applications made by the petitioner and his wife were reviewed and it was noted that the land offered by the petitioner (on the basis of which LOI has been issued in favour of the petitioner) and his wife were one and the same, also noting that this fact was admitted by the petitioner and his wife vide letter dated 20.07.2021.

11. The said letter also quoted Para-4(V) Note 1 (c) of the Brochure



for Selection of Dealers for Regular & Rural Retail Outlets dated 24.11.2018, which has been referenced above and in such light the LOI issued was cancelled.

12. The grounds agitated by the petitioner were that his wife Baby Kumari was not found fulfilling the requirements, hence with the rejection of her candidature, allotment was made in his favour. Second, that vide letter dated 20.07.2021, the petitioner had requested the particulars of the complaint filed to be furnished to him which was never done and third that at no point before the issuance of letter dated 22.07.2021 (Annexure-10) was a show cause issued to the petitioner to explain as to why his candidature should not be discarded. In other words, the petitioner hereby has alleged violations of the principles of the natural justice, and, therefore seeks quashing of letter dated 22.07.2021 (Annexure-10).

13. The counter affidavit filed by the Officer of the Indian Oil Corporation relies primarily on three facts. One, that the violation of terms of the Selection Brochure was admitted by the petitioner himself. Two, that the terms of the Selection Brochure to the effect of furnishing the same land by two separate persons, are clear, and three that under Clause 15 of their respective applications, both the petitioner and his wife signed an undertaking stating that their respective eligibility for RO dealership would be decided on the basis of information furnished herein and that, in particular Clause-m that same land cannot be furnished by more than one person.



14. It is submitted in the counter affidavit that the same plot of land bearing Plot No.248 purchased via sale deed dated 09.10.2014 was furnished by both petitioner and his wife. The same was admitted by the petitioner vide letter dated 20.07.2021 and hence the Corporation is left with no option but to cancel the letter of intent so granted.

15. Having heard learned counsel for the parties and perusing the petition as well as the counter affidavit filed, it is clear that the facts are straightforward. Clause 4(v) Note 1-c of the Selection Brochure titled as Selection of Dealer for Regular and Rural Retail Outlets dated 24th November, 2018 (Annexure R/1 to the counter affidavit) states unequivocally that in case more than one application is received on the same piece of land, all such application would be rejected and the allotments if already made would be liable for cancellation.

16. The ground of the petitioner that he was not aware of this condition, cannot be countenanced in law as it is the Selection Brochure which is the most essential document in completing an application for the issuance of RO dealership. Therefore, it is incumbent upon any and all applicants to abide by the conditions stipulated therein.

17. Extraction of the relevant portion of the applications submitted by the petitioner and his wife vis-à-vis details of the land and the common declaration for all the applicants required to be furnished would make the picture of violation of the terms of the Selection Brochure to be quite apparent.



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13	Land details-Group 1 (copy of proof of ownership of land would be required to be submitted as and when advised by Indian Oil Corporation Ltd.)							
	Name(s) of the owner of Land/Lease holder	Relationship with applicant	Date of registration of sale deed/gift deed registered lease deed/date of mutation	Location of the land with respect to Reference point/Land mark (specify land mark/ Reference point and distance from the same)	Khasra No./Khatouni/Gut No./Survey No.	Dimensions of land		
						Frontage in meter	Depth in meter	Area (Sq. m)
	Plot No.1							
	Nawal Kishore Mandal	Self	09.10.2014	BETWEEN KM STONE 156 AND KM STONE 161 ON SARSI-K. NAGAR ROAD ON NH 107	248	35	45	1575
	Plot No.2							
	Nawal Kishore Mandal	Self	21.04.2017	BETWEEN KM STONE 156 AND KM STONE 161 ON SARSI-K. NAGAR ROAD ON NH 107	248	35	45	1575
	Are you willing to transfer the land on sale/long lease to Indian Oil Corporation Ltd.						Yes	
	If yes at what rate(Rs.)/ terms			1,10,000/-				

Declaration

I, NAWAL KISHORE MANDAL son of Shri DHANPAT MANDAL hereby confirm that the information given above is true and correct. Any wrong information/misrepresentation/suppression of facts will make me ineligible for this RO dealership. That if any information/declaration given by me in my application or in any document submitted by me in support of application for the award of



the RO dealership shall be found to be untrue or incorrect or false, the Indian Oil Corporation Ltd. would be within its rights to withdrawn the letter of intent/terminate the dealership (if already appointed) and that I would have no claim, whatsoever, against the Corporation for such withdrawal/termination.”

1 3	Land details-Group 1 (copy of proof of ownership of land would be required to be submitted as and when advised by Indian Oil Corporation Ltd.)							
	Name(s) of the owner of Land/Lea se holder	Relationshi p with applicant	Date of registratio n of sale deed/gift deed registered lease deed/date of mutation	Location of the land with respect to Reference point/Lan d mark (specify land mark/ Reference point and distance from the same)	Khasra No/Khatouni/G ut No./Survey No.	Dimensions of land		
Fronta ge in meter						Dep th in met er	Ar ea (Sq m)	
	Plot No.1							
	Nawal Kishore Mandal	Spouse	09.10.201 4	MOUZA- ROSAKA KOSAKA GARH THANA NO.17 P.S.- K.NAGA R DIST. PURNEA	248	35	45	15 75
	Are you willing to transfer the land on sale/long lease to Indian Oil Corporation Ltd.						Yes	
	If yes at what rate(Rs.)/ terms			215000/-				

Declaration

I, BABY BHARTI wife of Shri NAWAL KISHORE MANDAL hereby confirm that the information given above is true and correct. Any wrong information/misrepresentation/suppression of facts will make me ineligible for this RO dealership. That if any information/declaration given by me in my application or in any document submitted by me in support of application for the award of the RO dealership shall be found to be untrue or incorrect or false, the Indian Oil Corporation Ltd. would be within its rights to withdrawn the letter of intent/terminate the dealership (if already appointed) and that I would have no claim, whatsoever, against the Corporation for such withdrawal/termination.”

18. Here only the relevant portion of the guidelines for selection of dealers for regular & rural retail outlets through draw of lots/bidding process is extracted as under:-



“Note 1:

...

- c. “The same piece of land cannot be offered by more than one applicant for a particular RO location against an advertisement. In case more than one application is received offering the same piece of land all such applications would be rejected and allotment, if made, would be liable for cancellation.

...”

19. On the submission of denial of the principles of natural justice, it is the considered view of this Court that on 20.07.2021, the petitioner and his wife were called to the Divisional Office, Indian Oil Corporation at Begusarai and were made aware of the complaint made against them. Subsequently, in an explanation dated the very same day, such position was admitted that indeed both persons had furnished the same piece of land in their application. Hence, the question of violation of natural justice does not arise. The candidate was aware of the issue in fact; was afforded an opportunity to explain, which he did avail; order assigning reasons on the very same ground was passed, copy whereof supplied. An admission of fact was made, mooted the need for issuance of show cause notice as alleged by the petitioner.

20. The issuance of show cause notice becomes essential, in order for the person against whom a complaint is made to effectively address the issues raised therein and if so required submit relevant documents to refute the same.

21. In the instant case, the sole ground mentioned in the letter dated 22.07.2021 (Annexure-10) by which the LOI issued on 09.04.2019 (Annexure-7) was that two applicants, i.e. the petitioner and his wife, had applied for RO



dealership on the basis of same plot of land. The Selection Brochure also stated that allotment if already made, would be liable to be cancelled.

22. Issue answered accordingly.

23. In view of the aforesaid discussions, this petition lacks merit and is dismissed.

24. Considering the importance of establishment of such dealership, both for economic as well as social reasons as noted earlier by this Court in CWJC No. 8900 of 2020 titled as The National Highway Projects in the state of Bihar v. State of Bihar, the respondent- Indian Oil Corporation Limited is directed to complete the processes with respect to the 1554 locations advertised in the 2018 with expedition as per law.

25. Interlocutory application, if any, shall also stand disposed of.

(Sanjay Karol, CJ)

(S. Kumar, J)

Sunil/
sujit -

AFR/NAFR	AFR
CAV DATE	
Uploading Date	22.08.2022
Transmission Date	

