

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.24089 of 2019

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Manjeet Kumar Thakur @ Manjit Kumar Thakur, S/o Hira Lal Thakur, R/o
Village- Mathia, P.S.- Lauria, District- West Champaran.

... .. Petitioner

Versus

1. The Union of India through the Secretary, Department of Petroleum, Govt. of India, New Delhi.
2. The Secretary, Department of Petroleum, Govt. of India, New Delhi.
3. The Hindustan Petroleum Corporation Limited, 17, Jamshedji Tata Road, Mumbai- 400020.
4. The Chairman-cum-Managing Director, Hindustan Petroleum Corporation Limited, 17, Jamshedji Tata Road, Mumbai- 400020.
5. The Head of Regional Office, Begusarai Retail Regional Office, Hindustan Petroleum Corporation Limited, Har Har Mahadev Chowk, 2nd Floor, Raghunath Palace, G.S. Motor, Maruti Show Room Building, Begusarai- 851101.
6. The District Magistrate, West Champaran.

... .. Respondents

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Appearance :

For the Petitioner/s	:	Mr. Sanjeev Kumar Mishra, Advocate Mrs. Manini Jaiswal, Advocate Mr. Ankita Kumari, Advocate
For UOI	:	Mr. Anshuman Singh, CGC
For HPCL	:	Mr. Neeraj Kumar Gupta, Advocate
For the State	:	Mr. Alok Ranjan, AC to AAG-5

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH

and

HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH)

Date : 29-06-2022



Heard Mr. Sanjeev Kumar Mishra, learned counsel for the petitioner and Mr. Neeraj Kumar Gupta, learned counsel for the respondents.

2. In the present application, the petitioner has prayed for quashing the letter dated 19.10.2019 issued by the Regional Office of the Hindustan Petroleum Corporation Limited (for short 'HPCL') whereby the candidature of the petitioner for award of Retail Outlet (RO) Dealership at between Parsa Chowk and Sanichari Chowk of NH-28B in the district of West Champaran has been rejected on the ground that the Land Evaluation Committee found the site offered by the petitioner to be not meeting the required norms. Subsequently, the petitioner filed an Interlocutory Application vide I.A. No.02 of 2021 for adding the prayer to quash the part of the selection list by which the respondent-HPCL selected one Rajnish Rao in place of the petitioner.

3. The petitioner's case succinctly is that respondent-HPCL published notification in the newspaper on 25.11.2018 for appointment of Retail Outlet Dealership for all the States of India including the State of Bihar. Accordingly, an advertisement was published by the HPCL for award of Retail Outlet Dealership at location between Parsa Chowk and



Sanichari Chowk on NH-28B in the District of West Champaran under open category. Pursuant to the advertisement, the petitioner filed his application on 24.12.2018. He was informed on 13.06.2019 that he has qualified for the draw of lots and he was asked to be present personally with photo identity card on 24.06.2019. On 25.06.2019, he was informed that he has been declared as successful candidate for the selection of the Retail Outlet Dealership. He was further asked to deposit Rs.50,000/- for processing the application for award of Retail Outlet Dealership. On 04.10.2019, he was informed that the Land Evaluation Committee would visit the site offered on 10.10.2019. Thus, he was directed to be personally present along with photo identity card with all relevant documents on the said dates at the site. On 10.10.2019, though the petitioner was ready with all the documents, the site was not visited by the Land Evaluation Committee of the respondent-HPCL. On 11.10.2019, once again he got information that the Land Evaluation Committee would visit the site on 11.10.2019.

4. The further case of the petitioner is that he had purchased 2 *katha* 4 *dhurs* of land adjoining to the site offered by him on 16.08.2019 and the mutation of the same was done on 27.08.2019. The said land was acquired by him prior to the site



visit of the Land Evaluation Committee. After the site visit was conducted by the Land Evaluation Committee, vide impugned letter dated 19.10.2019, he was informed that the site offered by him did not meet the required norms as the frontage of the offered plot was less than the required i.e. only 15 metre and that the other plots had been acquired by the sale deed dated 16.08.2019 which is not acceptable.

5. Mr. Sanjeev Kumar Mishra, learned counsel appearing for the petitioner submitted that the land was acquired by the petitioner much prior to the visit of the Land Evaluation Committee of the respondent-HPCL and on the date of visit, the petitioner was fulfilling all the criteria of the respondent-HPCL. He submitted that vide impugned letter dated 19.10.2019, the petitioner has been declared ineligible illegally. He further contended that respondent-HPCL cannot be hyper technical in its approach and even the land acquired subsequent to the date of application ought to have been taken into consideration by the HPCL to be available for the site in question and on that ground the candidature of the petitioner could not have been rejected.

6. A counter affidavit has been filed on behalf of respondent nos. 3 to 5 contending *inter alia* that as per the



prevailing policy and guidelines for selection of Retail Outlet Dealership, the petitioner had submitted land supporting documents at the Regional Office of the HPCL on 04.07.2019 in support of the offered piece of land in his application dated 24.12.2018 wherein in clause 13 of the application the land offered by him has been stated as Khata No.49, Khesra No.447/451 and area 1800 square metre for the dimension 40 metre (frontage) and 45 metre (depth) which equals to 1800 square meter. During the scrutiny of land supporting documents, the committee nominated by the Regional Head observed that the petitioner had submitted a copy of registered Sale Deed bearing no.2511 dated 27.03.2017 purchased by Sri Dilip Kumar Thakur, son of late Heera Lal Thakur for a piece of land area admeasuring 18.75 decimals appertaining to Khata No.49, Khesra No.451. As per the sale deed, total area offered was 40 decimals which equals to 1618 square metre approx which is less than the required area as per advertisement, which is 1800 square metre. Further, the petitioner had offered some additional land documents i.e. Sale Deed No.9096 dated 16.08.2019 and also mutation order of the land pertaining to same sale deed and also a notarized affidavit regarding the petitioner Manjeet Kumar Thakur is also known by the name Dilip Thakur.



7. It is further contended in the counter affidavit that the additional land vide Sale Deed No.9096 dated 16.08.2019 offered by the petitioner was not considered for the Retail Outlet Dealership as the prevailing policy and guidelines restricted the respondents from taking land documents or any other document pertaining to the eligibility criteria after the date of application submitted by the candidate for the selection of Retail Outlet Dealership.

8. The next contention of the respondent nos. 3 to 5 in the counter affidavit is that the Land Evaluation Committee had carried out land evaluation process of the land offered by the petitioner on 11.10.2019 based on the measurement of dimensions mentioned in clause '13' of the petitioner's application dated 24.10.2019. It measured the offered plot and found that the offered plot was having frontage of 15 metre and depth of 30 metre only against the advertisement's requirement of 40 metre of frontage and 45 metre of depth.

9. Mr. Neeraj Kumar Gupta, learned counsel appearing on behalf of respondent nos. 3 to 5 submitted that as per clause 4(V) (a) of the prevailing brochure of selection of dealers of retail outlet dated 24th November, 2018 which was part of the advertisement inviting application for retail outlet it



was required that the land should be available with the applicant as on the date of application and should have minimum lease of 19 years and 11 months from the date or after the date of advertisement but not later than the date of application. He submitted that Sale Deed No.9096 dated 16.08.2019 whereby some additional land was offered by the petitioner was not as per the prevailing policy and guidelines for selection of Retail Outlet Dealership and, hence, the same was not considered. He further contended that the petitioner had offered a piece of land for an area of 1800 square metre admeasuring 40 metre (frontage) and 45 metre (depth) as per requirement of advertisement and had also submitted supporting documents in this regard in the Regional Office on 04.07.2019, but when the Land Evaluation Committee visited the site, it found declaration made by the petitioner to be false. The Land Evaluation Committee while visiting the site found the frontage of the land offered by the petitioner to be 15 metre and the depth to be 30 metre only. Since the land offered by the petitioner was not available with him on the date of application and the land was also not as per the requirement of the advertisement, the petitioner was informed that he was found ineligible for selection of Retail Outlet Dealership.



10. Learned counsel for the respondent nos. 3 to 5 vehemently argued that in view of clause 4(v)(a) of the guidelines for selection of Retail Outlet Dealership, the petitioner has rightly been declared ineligible. He contended that the petitioner had given wrong information in his application and thus also he cannot take the plea that he has illegally been declared ineligible. In support of his submissions, he has placed reliance on a Division Bench judgment of this Court in *Indian Oil Corporation Limited vs. Raj Kumar Jha*, since reported in **2012 (2) PLJR 783**.

11. The guidelines for selection of Retail Outlet Dealership dated 24th November, 2018 has been brought on record by the respondent nos. 3 to 5 in their counter affidavit. Clause 4(v)(a) of the aforesaid guidelines provides that the land should be available with the applicant as on the date of application and should have minimum lease of 19 years and 11 months (as advertised by respective oil company) from the date or after the date of advertisement but not later than the date of application.

12. We have heard learned counsel for the parties and perused the record.

13. We find force in the submission made on behalf of



respondent nos. 3 to 5.

14. There is no dispute to the fact that the additional land documents submitted by the petitioner vide Sale Deed No.9096 dated 16.08.2019 was not available with the petitioner on the date of application. Thus, in view of the prevailing policy and guidelines, specially clause 4(v)(a), the additional land offered by the petitioner vide Sale Deed dated 16.08.2019 was not considered for the Retail Outlet Dealership.

15. That apart, when the Land Evaluation Committee carried out the evaluation of the land offered by the petitioner on 11.10.2019, it found that offered plot was having a frontage of only 15 metre and depth of 30 metre only against the requirement of advertisement of 40 metre (frontage) and 45 metre (depth). The land offered by the petitioner measured approximately 1618 square metre in place of 1800 square metre area required as per the advertisement.

16. It would be of salience to note here that the petitioner made a wrong information in his application in respect of the dimension and area of the offered land. He had suppressed vital facts deliberately in his application with ulterior motive and tried to obtain the dealership.

17. The respondent HPCL being the instrumentality of



the State falls within the domain of Article 12 of the Constitution of India and commercial contracts entered into by it are subject to judicial review to confirm whether in the course of entering into contracts, the Corporation maintained fairness, transparency and level playing field.

18. The judgment on which reliance has been placed on behalf of respondent nos. 3 to 5 squarely covers the present case. The relevant paragraph of the said judgment are being extracted hereunder:

“9. We are of the opinion that the Corporation being the State within the meaning of Article 12 of the Constitution is supposed to act fairly, reasonably and uniformly and has to be objective in its approach. Once the standard is set out in the advertisement, the Corporation has to adhere to the said standard without any variation. In case, the Corporation allows any alteration the same will amount to subjective approach which is frowned upon by the Courts time and again. To remain objective the Corporation is required to adhere to the standards mentioned in the advertisement. In the present case, it is not in dispute that the application made by the writ petitioner was not in conformation with the requirements mentioned in the advertisement. In our opinion, the Corporation was justified in rejecting the



application of the writ petitioner.

10. The learned Single Judge ought not to have interfered with the decision of the Corporation which was taken in consonance with the terms and conditions contained in the advertisement. Besides; may be, in the present case it was a mere typographical error. However, there might be a case of mischief or misrepresentation also. It is difficult to draw a line where an error ends and a mischief or misrepresentation begins. The best way to avoid discrimination is strict adherence to the standards mentioned in the advertisement.

11. For the aforesaid reasons we hold that the Corporation was justified in rejecting the application of the writ petitioner. The Appeal is allowed. The impugned judgment and order dated 28th January, 2010 passed by the learned Single Judge in CWJC No. 13196 of 2009 is set aside. CWJC No. 13196 is dismissed.”

(emphasis supplied)

19. There is no dispute that the land offered by the petitioner was not in conformity with the requirements under the advertisement. The respondent-HPCL was required to maintain strict adherence to the standards mentioned in the advertisement as has been held by a Division Bench of this Court in ***Raj***



Kumar Jha (supra).

20. For the aforesaid reasons, we find no merit in this application. It is dismissed, accordingly.

(Ashwani Kumar Singh, J)

(Dr. Anshuman, J)

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AFR/NAFR	NA
CAV DATE	NA
Uploading Date	04.07.2022
Transmission Date	NA

