

Item No.246

06.01.2022
Ct-24

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

WPA 18525 of 2021
Samiul Kalam
v.
Indian Oil Corporation Limited & Ors.

Mr. Sabir Ahmed
Mr. Mujibar Ali Naskar
... for the petitioner

Mr. M.S. Yadav
... for IOCL.

The petitioner's application for Retail Outlet Dealership at Chanchol to Tulshihata on NH-81 (New NH 131A) District Malda under OBC category has been rejected by the Indian Oil Corporation Limited on the ground that the land lease registration date is December 26, 2018 which is a day later than the date of application that is December 25, 2018.

The petitioner is aggrieved by the said rejection.

According to the petitioner the lease deed that he relied upon was presented for execution in the office of the District Sub-Registrar, Malda on December 24, 2018. The next date that is December 25, 2018 being a National Holiday the registration could not be effected and the same was admitted for registration on December 26, 2018.

According to the petitioner as the lease deed was executed on December 24, 2018 the respondent authority ought to consider the deed of the petitioner to have been registered on December 24, 2018 and the petitioner ought to be considered in Group-I category.

The petitioner further submits that according to the brochure of the respondent Company one of the conditions is, that the land should be available with the applicant on the date of the application.

The petitioner submits that the land was available with the applicant on the date of the application and accordingly the petitioner should be treated as a Group-I applicant.

The learned advocate representing the Indian Oil Corporation Limited submits that the lease deed relied upon by the petitioner was presented for registration on December 24, 2018 and the same was signed on December 24, 2018 at the private residence of the executant at 7-30 p.m. in the evening by way of commission. The deed was finally registered only on December 31, 2018 and the registration number was allotted on the said date.

It has been submitted that as per the provision of law, the day of execution of the deed is not the date of registration of the deed and in the absence of a valid

lease deed the Company cannot treat the petitioner as a Group-I applicant.

It has further been submitted that there are several other candidates in the Group-I category and they have been selected by draw of lots. As the petitioner did not have a valid registered lease deed on the day of making application, accordingly the case of the petitioner cannot fall under Group-I category.

I have heard the submissions made on behalf of both the parties.

The brochure following which the selection of the retail outlets is made mentions that the applicants are to be classified in three groups based on the land offered or land not offered by them in the application form. Applicants having suitable piece of land in the advertised location/area either by way of ownership, long term lease for a period of nineteen years and eleven months or as advertised by the Company are treated as Group-I applicants.

The brochure further mentions that the applicants under Group-I should have documents to establish ownership of land offered, such as registered lease deed for a minimum period of nineteen years and eleven months.

In the present case, admittedly, the lease deed was registered on December 31, 2018 which is later than the

last day of filing the application. The submission of the petitioner that the day when the deed was presented for execution that is December 24, 2018 be treated as the date of registration of the lease deed cannot be accepted by the Court.

Further submission of the petitioner that December 25, 2018 being a National Holiday it was not possible for the petitioner to get the deed registered on that day, does not help the petitioner in any manner.

If the petitioner was genuinely interested in obtaining the dealership, he ought to have taken proper steps to get the lease deed registered prior to filing the application.

Merely presenting the deed for execution or only signing the deed does not imply that the lease deed has been registered. The deed is registered only after the registration number is allotted and the same is recorded in the book of the registering authority.

The petitioner did not comply with the formalities as per the brochure and accordingly the petitioner cannot be treated as a Group-I applicant possessing the registered lease deed on the day the application was made.

Accordingly, the impugned order does not call for any interference.

The writ petition fails and is hereby dismissed.

Urgent photostat certified copy of this order, if applied for, be given to the parties after completion of all legal formalities.

Sh

(Amrita Sinha, J.)