

14.06.2022
SL No.13
Court No.8
(gc)

MAT 1355 of 2018

**Arindam Saha
Vs.
Indian Oil Corporation Ltd. & Ors.**

Mr. Raghunath Chakraborty,
...for the Appellant.

This appeal is arising out of an order dated 17th July, 2018 in connection with a writ petition filed by the appellant for L.P.G Dealership at Majhipara, North 24-Parganas District under the RGGLV Scheme under the Indian Oil Corporation. On 3rd December, 2012, the application for Dealership was allowed subject to certain conditions. However, thereafter the said allotment was cancelled as it was later on discovered that the said land is not a free-hold land based on the records that made available to the Oil Company. Record reveals that at the relevant time, it was a barga land which was subsequently rectified only on 7th November, 2013, that is, subsequent to the date of submission of the land for the proposed construction. In the earlier litigation, the said discrepancy was noticed and liberty was granted to the writ petitioner to make a representation. Indian Oil Corporation (in short "I.O.C") has rejected the said application on the ground that the petitioner has misrepresented the fact in his application and was made eligible by the Scrutiny Committee. Although he was not eligible by reason of the land identified as barga land. The authority was of the view that had he declared the

name of the bargadar in the application, the Scrutiny Committee would not have recommended his name in the draw.

Mr. Raghunath Chakraborty, learned Counsel appearing on behalf of the appellant submits that all relevant documents were submitted to the Scrutiny Committee and if the Scrutiny Committee had made any mistake in selecting the petitioner, it cannot be contended that there has been any misrepresentation on his part. If the terms and conditions required the petitioner to offer free-hold land and the petitioner had offered the land with barga, it cannot be said to be a mistake as it was consciously filed knowing fully well that except the free- hold land, the I.O.C would not accept any land for the proposed construction. The chance of the petitioner to offer alternative land getting lost by reason of erroneous decision of the I.O.C in not promptly identifying the discrepancy, in our view, does not enure to the benefit of the petitioner as it is incumbent upon the petitioner to fulfil the conditions first and not to wait for the discrepancy to be found out by the Oil Corporation when it was known to the writ petitioner that it is not a free hold land.

On such consideration, we do not find any reason to interfere with the order passed by the learned Single Judge.

Accordingly, the appeal being MAT 1355 of 2018 stands dismissed.

However, there shall be no order as to costs.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Siddhartha Roy Chowdhury, J.)

(Soumen Sen, J.)