

IN THE HIGH COURT AT CALCUTTA

(Constitutional Writ Jurisdiction)

APPELLATE SIDE

Present:

The Hon'ble Justice Krishna Rao

WPA 34304 of 2014

Abdul Malek Sk.

Versus

Indian Oil Corporation Ltd. & Ors.

Mr. Goutam Dey

Mr. Rajesh Naskar

Md. Jannat UL Frious

Mr. Dipendu Sarkar

Mr. Kaushal Kumar

.....For the Petitioner

Mr. Biswaroop Bhattacharya

Mr. Victor Chatterjee

Mr. Barnamoy Basak

Ms. Sharmishtha Ghosh

Mr. Sharbham Bhattacharya

.....For the Respondents

Heard on : 28.01.2022

Judgment on : 02.02.2022

Krishna Rao, J.: The petitioner has challenged the order passed by the Indian Oil Corporation Ltd. dated 20.11.2014 wherein the Indian Oil

Corporation Ltd. rejected the candidature of the petitioner for awarding Rajiv Gandhi Gramin Liquid Petroleum Gas Vitrak (herein referred as “RGGLPGV”) at Noyapara, Nakpur, Kumarsunda, Kahlipur, Ujirpur, District-Birbhum under open category on the ground that the petitioner failed to maintain the minimum amount of Rs. 4,00,000/- as on the last date of the application i.e. dt. 24.03.2014.

Mr. Goutam Dey, Ld. Advocate representing the petitioner submitted that the Indian Oil Corporation Ltd. had published a notice for allotment of RGGLPGV on 21.01.2014. The petitioner had applied for awarding of RGGLPGV at Noyapara, Nakpur, Kumarsunda, Kalhipur, Ujirpur, District-Birbhum under open category. The Counsel for the petitioner contended that as per the advertisement dated 21.01.2014, the last date for submission of the application was 24.02.2014 and on the day, the petitioner had to maintain minimum amount of Rs. 4,00,000/- in his account. In the mean-time on 23.02.2014 the respondent, Indian Oil Corporation Ltd. has published a corrigendum/correction in Ananda Bazar Patrika by extending the time for submitting of application till 24.03.2014 with the further condition that other terms and conditions will remain same.

The Counsel for the petitioner had referred the letter dated 28.07.2014 issued by the Chief Area Manager, Indian Oil Corporation Ltd. wherein it was informed to the petitioner that the petitioner has qualified for draw for selection of RGGLPGV and requested the petitioner to be personally present along with photo Identity Card issued by any government department for draw at 11. A.M. on 20.08.2014 in the office of the Indian Oil

Corporation at Durgapur. It was further submitted that the petitioner had appeared before the respondent authorities in terms of the letter dt. 28.07.2014.

The petitioner has further relied upon the letter dt. 29.08.2014 issued by the Chief Area Manager, Indian Oil Corporation wherein it was informed to the petitioner that he has been declared as selected candidate during the draw held on 20.08.2014 and advised to the petitioner to deposit an amount of Rs. 20,000/- through D.D in favour of Indian Oil Corporation Ltd. and accordingly, the petitioner had deposited the said amount.

The petitioner has further relied upon the statement of account maintained by the petitioner at Allahabad Bank, Noyapara Branch and submitted that on 24.02.2014, the petitioner was having an amount of Rs. 4,03,135/- in his account.

The petitioner further submitted that all of a sudden on 20.11.2014 the Chief Area Manager, Durgapur, Indian Oil Corporation had issued a letter rejecting the claim of the petitioner on the ground that as on the last date of the application i.e. on 24.03.2014, the petitioner failed to maintain the minimum amount of Rs. 4,00,000/-.

The petitioner further submitted that as per the advertisement dt. 21.01.2014, the last date of the application was 24.02.2014 and on that day the petitioner was having Rs. 4,00,000/- in his account but the respondent authorities without considering the said fact have rejected the candidature of the petitioner for awarding RGGLPGV at Noyapara.

Mr. Biswaroop Bhattacharya representing the Indian Oil Corporation has submitted that this is the matter relating to Article 14 of the Constitution of India which touches the 'Right of Equality'. Mr. Bhattacharya has submitted that initially the Indian Oil Corporation vide advertisement dt. 21.01.2014 had fixed the last date of receipt of the application as 24.02.2014 but subsequently by way of corrigendum dt. 23.02.2014, the respondent, the Indian Oil Corporation has extended the last date of submission of the application till 24.03.2014 so as to give further opportunity to the General Public to participate in the process of allotment of RGGLPGV and as such the last date of application is to be treated as 24.03.2014.

Mr. Bhattacharya further submitted that though the petitioner had submitted application prior to 24.02.2014 and on that date the petitioner was maintaining an amount of Rs. 4,00,000/- in his account but when the respondents have extended the date for submission of the application till 24.03.2014 at the relevant point of time, the petitioner failed to maintain the said amount and the petitioner was having only an amount of Rs. 3,78,135 in his account and thus when the respondents have considered the documents submitted by the petitioner it was found that the petitioner failed to maintain the minimum amount of Rs. 4,00,000/- as on the last date of application i.e. dt. 24.03.2014. Mr. Bhattacharya relied upon the judgment reported in (2021) 6 SCC 163 (Suman Devi & Ors. -Versus- State of Uttarakhand) and submitted that the eligibility of a candidature or applicant for public post or service, is to be adjudged as on the last date of receipt of

the applications for such post or services, in terms of the relevant advertisement, and the prevailing service rules.

The Counsel for the respondent further submitted that on the last date of application, i.e. on 24.03.2021 the petitioner has not maintained the minimum amount of Rs. 4,00,000/- in his account and as such the respondents have rightly rejected the candidature of the petitioner.

This Court considered the rival submissions of the parties, documents available on record and the judgment relied by the respondent. Admittedly, the Indian Oil Corporation had published an advertisement for allotment of RGGLPGV at various places including Noyapara and as per the advertisement the last date of submission of the application was fixed on 24.02.2014. As per the advertisement dt. 21.01.2014, the applicant has to maintain minimum amount of Rs. 4,00,000/- in his account as on 24.2.2014 i.e. the last date of the application. In terms of the advertisement dt. 21.01.2014 the petitioner had submitted an application on or before 24.02.2014 and on that date the petitioner had maintained the minimum of Rs. 4,00,000/- in his account.

Subsequently, on 23.02.2014 by way of corrigendum, the Indian Oil Corporation have extended the last date of submission of application till 24.03.2014.

As per the statement of the bank passbook of Allahabad Bank of the petitioner it is found that on 24.02.2014 the petitioner was having an amount of Rs. 4,03,135/- in his account but on 21.03.2014 the petitioner

has withdrawn an amount of Rs. 25,000/- from the said account and there was remaining only an amount of Rs. 3,78,135/-. The respondents have extended the last date of application till 24.03.2014 and as on 24.03.2014 the petitioner was having only the amount of Rs. 3,78,135.

The petitioner had the knowledge that the respondents have extended the date for submission of application from 24.02.2014 to 24.03.2014 but inspite of the same in the mean-time i.e. on 21.03.2014 the petitioner has withdrawn an amount of Rs. 25,000/- from the said account and as on 24.03.2014 the petitioner had maintained only Rs. 3,78,135/-.

The judgment passed by the Hon'ble Supreme Court in the case of Suman Devi -Versus- State of Uttarakhand (supra) in which the Hon'ble Supreme Court had relied upon the judgment passed in the case of Ashok Kumar Sharma -Versus- Chandra Sekhar reported in (1997) 4 SCC 18 wherein the Hon'ble Court Supreme Court has categorically held that the proposition that where the applications are called for prescribing a particular date as the last date for filing the application, the eligibility of the candidates shall have to be judged with reference to that date and that date alone, is well established one.

In the instant case, though the Indian Oil Corporation in their initial advertisement have fixed the last date for submission of the application on 24.02.2014 but subsequently, by way of corrigendum dt. 23.02.2014 the submission of application was extended till 24.03.2014 and as such the last date of the application is to be taken into consideration as 24.03.2014.

As per the record, the petitioner has not maintained the minimum amount of Rs. 4,00,000/- as on the last date of application i.e. 24.03.2014 and thus the impugned letter dt. 20.11.2014 does not required any interference.

WPA No. 34304 of 2014 is thus dismissed. There will be no order as to costs.

Parties shall be entitled to act on the basis of a server copy of the Judgment and Order placed on the official website of the Court.

Urgent Xerox certified photocopies of this judgment, if applied for, be given to the parties upon compliance of the requisite formalities.

(Krishna Rao, J.)