

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.62 of 2022

Nibedita Swain

....

Appellant

Mr. Anurag Pati, Advocate

-versus-

***Bharat Petroleum Corporation Ltd. and
others***

....

Respondents

Mr. S.D. Das, Senior Advocate

Mr. Bijay Kumar Das, Advocate for Resp. No.3

**CORAM:
THE CHIEF JUSTICE
JUSTICE CHITTARANJAN DASH**

**ORDER
14.10.2022**

Order No.

05. 1. The challenge in the present writ appeal is to an order dated 21st December 2021, passed by the learned Single Judge dismissing the Appellant's W.P.(C) No.4747 of 2020.

2. The present Appellant and Respondent No.3 had applied for a retail outlet of Bharat Petroleum Corporation Limited (BPCL) (Respondent No.1). While Respondent No.3 was selected, the present Appellant challenged it on the ground that the distance was not within one kilometer from the Barihapali Chowk on SH-3 towards Padampur as was required by the terms and conditions of the advertisement. While the Appellant contended that it was nearly

3 kilometers away, Respondent No.3 contended that it was 940 meters away. The learned Single Judge appointed a Special Officer to undertake the measurement who found that the actual location was 1.14 kilometers away. Taking note of the fact that the excess distance when measured by tape was only 0.14 kilometers and that if measured by an odometer, it would still be within a kilometer, the learned Single Judge has declined to interfere.

4. Having heard learned counsel for the parties, this Court is also not persuaded that Respondent No.3 should be held disqualified only because the actual distance is slightly above one kilometer. It has been explained how subsequent to the advertisement being published, the SH was made into a four-lane SH which resulted in the shifting of the actual location further from the chowk and this could perhaps explain the marginally additional distance of 0.14 kilometers.

5. For the aforementioned reasons, this Court is not inclined to interfere with the impugned order of the learned Single Judge. The appeal is accordingly dismissed.

(Dr. S. Muralidhar)
Chief Justice

(Chittaranjan Dash)
Judge

S. Behera