

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.5355 of 2019

Sanjukta Pradhan

....

Petitioner

Mr. Ashok Das, Adv.

-versus-

Chief General Manager and Anr.

....

Opp. Parties

Mr. K. Sahoo, Adv.

Miss. B.B. Sahoo, Adv.

(for O.P. No.10)

CORAM:

DR. JUSTICE B.R. SARANGI

MR. JUSTICE S.K. PANIGRAHI

ORDER

09.02.2022

Order No.

05.

1. This matter is taken up through hybrid arrangement.
2. Mr. Karunakar Sahoo, learned advocate and his associate file Vakalatnama and appear to argue the matter on behalf of the opposite party no.1. The same be kept on record.
3. Heard Mr. Ashok Das, learned counsel for the petitioner and Miss. B.B. Sahoo, learned counsel for the opposite party no.1.
4. The petitioner has filed this writ petition seeking to quash the selection of opposite party no.2 for retail outlet dealership under Annexure-5, and to issue direction to the opposite party no.1 to select her in place of opposite party no.2.
5. Learned counsel for the petitioner contended that pursuant to the advertisement issued under Annexure-1, the petitioner applied for allotment of dealership for regular and rural retail outlets through draw of lots/ bidding process. As per the advertisement under Annexure-1, though the petitioner had satisfied the requirements, but the dealership was not allotted in

her favour. On the other hand, even though the opposite party no.2 had not satisfied the requirements of land as per the advertisement under Annexure-1, he was allotted with the dealership, thereby, selection and appointment of the opposite party no.2 as a retail outlet dealer cannot sustain in the eye of law.

6. Learned counsel for the opposite party no.1 stated that neither the petitioner nor the opposite party no.2 is eligible for allotment of the retail outlet dealership as per the advertisement under Annexure-1. To buttress her contention, learned counsel for the opposite party no.1 relies upon paragraph 6.7 of the counter affidavit filed on behalf of the opposite party no.1, which reads as under:

“In paragraph-7 of the writ petition the petitioner has mentioned that the opp. party no.2 has submitted his application showing the land which does not fulfill the required criteria. It is worthy to state here that as per the laid down selection procedure, all applicants for a particular location are categorized in Group 1 or Group2 or Group 3 based on the fact whether the land offered by them in their application is owned by the applicant or the applicant is having a Firm Offer from the land owner for land offered in the application or no land is offered by the applicant in the application. As per guidelines, Draw of Lots is to be held first for the applicants in Group 1 and if there is no applicant offering land in Group 1 category, the Draw of Lots is to be held for the applicant in Group 2 and so forth. The photo copy of the said guideline is filed herewith as Annexure-A.

The present writ petition concerns the location “Within 5 km from Madanmohanpur towards Chikiti on SH-29”, Dist- Ganjam under advertisement sl. No.709. Total 07 (seven) nos. of applications were received under Group 1 category (including the application of the petitioner) for the

said location. Accordingly, Draw of Lots was held for all the applicants in Group 1. In the said draw of lots Shri Niranjana Pradhan (Opposite Party No.2) was selected.

After scrutiny of the received applications done by the Application Scrutiny Committee (ASC), the nominated member visited to the land offered by Shri Niranjana Pradhan to carry out land evaluation. It is respectfully submitted that as per the report dtd. 07.02.2020 of the Land Evaluation Committee, it is found that the size of the offered land does not match with the requirements mentioned in the advertisement i.e. 35 meter x 35 meter. Therefore, the offered land was rejected by the Land Evaluation Committee.

As per laid down policy, in case candidature of selected candidate is found ineligible under Group-1 post Draw of Lots, i.e. during Application Scrutiny/Land Evaluation/FVC, then fresh draw for selection would be held again from the remaining eligible candidates. Therefore, now fresh draw of lots need to be held between 6 applicants for the aforesaid location including the petitioner.”

More so, in paragraph 6.8 of the said counter affidavit, it has also been stated as follows:

“That the averments made in paragraph-8 of the writ petition that the opp. party no.2 have 11 KVA line over the said plot, is false and fabricated. Because, LEC visited the offered site of Niranjana Pradhan on 07.02.2020 and after land evaluation found the land unsuitable on the ground that Land Dimension does not meet minimum criteria as per the advertisement. The committee did not find any HT Line (>11KVA) crossing the land and mentioned in their report dated 07.02.2020 that the land has no HT Line (>11KVA) crossing.”

7. In the above view of the matter, the opposite party no.2 was ineligible for allotment of the retail outlet dealership due to deficiency of land offered by him. Furthermore, the petitioner

was given opportunity to participate in the draw of lots held between remaining six applicants of Group-1, but, as none of the applicants offered land in Group-1 category, thereby the draw of lots had to be held for the applicants in Group-2 category.

8. In that view of the matter, since the selection of the opposite party no.2, as made vide Annxexure-5, was not in accordance with the terms of the advertisement, the same is hereby quashed. The matter is remitted back to the authorities concerned to make fresh selection by publishing fresh advertisement and giving opportunity to all the participants to participate in the selection process.

9. Accordingly, this writ petition is disposed of.

10. Urgent certified copy of this order be granted on proper application.

(Dr. B.R. Sarangi)
Judge

(S.K. Panigrahi)
Judge

BJ