

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No.329 of 2014

Smt. Kabita Behera

....

Appellant

Mr. Ashok Mohanty, Senior Advocate

-versus-

***Indian Oil Corporation Ltd.,
Bhubaneswar and another***

Respondents

Mr. Pitambar Acharya, Senior Advocate
for Respondent No.1 and

Mr. S.S. Padhy, Advocate for Respondent No.2

W.P.(C) No.21568 of 2016

Amit Kumar Lohani

....

Petitioner

Mr. S.S. Padhy, Advocate

-versus-

***Indian Oil Corporation Ltd.,
Bhubaneswar***

Opposite Party

Mr. Pitambar Acharya, Senior Advocate

CORAM:

THE CHIEF JUSTICE

JUSTICE CHITTARANJAN DASH

Order No.

**ORDER
20.09.2022**

W.A. No.329 of 2014

13. 1. The challenge in the present appeal is to a judgment dated 28th July 2014 of the learned Single Judge dismissing the Appellant's W.P.(C) No.20066 of 2010.

2. The Appellant applied under the Rajiv Gandhi Gramin LPG Vitrak (Liquefied Petroleum Gas/Cooking Gas) (Scheme) for a distributorship for Jhumpura in Keonjhar District in the 'open category'. Pursuant to the said application made on 30th December 2009, the Appellant was asked to participate in the draw of lottery on 28th May, 2010. On 9th November 2010, while other Applicants were asked to participate in the re-draw of the lottery on 30th November 2010, the Appellant was not given any such intimation. Questioning the said decision, the writ petition was filed by the Appellant.

3. In the counter affidavit filed in the writ petition, it was pointed out by the Respondent Indian Oil Corporation Limited (IOCL) that among the reasons for the Appellant not being selected was that she did not own the land which was offered for operating the distributorship. Although in the application form, she claimed that she was the owner of the land and gave the date of a registered sale deed as 15th December 2009, on verification, it transpired that it was only a lease deed and on the ground that in terms of the applicable guidelines, the Appellant was found not eligible.

4. The learned Single Judge has upheld the decision of the IOCL holding that the Appellant had to have "clear ownership title of the property in the name of the Applicant/family member of the family unit as defined in the multiple dealership/distributorship norm." The learned Single Judge further found that by declaring that she was the owner of the land in the application form, the

Appellant had misrepresented facts. Accordingly, the writ petition was dismissed.

5. This Court has heard the submissions of Mr. Ashok Mohanty, learned Senior Counsel for the Appellant, Mr. Pitambar Acharya, learned Senior Counsel for the Respondent-IOCL and Mr. S.S. Padhy, learned counsel appearing for the successful candidate-Respondent No.2.

6. Mr. Mohanty draws attention to the verification sheet prepared by the Office of the IOCL on scrutinizing the Appellant's application where in the relevant remarks column it is acknowledged that what the Appellant had a registered lease deed. According to him, in terms of Section 109 of the Transfer of Property Act 1882, as long as there was a long-term lease, which in this case was for 40 years, all the rights of the original owner would be available to the 'transferee' and therefore it was as good as the Appellant being the owner of the land in question.

7. Mr. Acharya, on the other hand, refers to the applicable norms published by IOCL in a Brochure applicable to the selection of Distributors which required the Applicant to be the owner of the land being offered for the distributorship.

8. There is merit in the contention of Mr. Acharya that the verification report was an internal document prepared by the office of IOCL and did not confer a right on the Appellant to contend that short of ownership even a land obtained under a lease for a period of more than fifteen years would satisfy that

requirement. The specific clause in the published norms of the IOCL as set out in its Brochure reads as under:

“4. Common Eligibility Criteria for all Categories:

xxx

xxx

xxx

(g) own a suitable land (plot) of minimum 20 metre X 24 metre in dimension at the advertised RGGLV location for construction of LPG cylinder Storage Godown.

Own means having clear ownership title of the property in the name of applicant/family member of the ‘Family Unit’ as defined in multiple dealership/distributorship norm. In case of ownership/co-ownership by family member, consent letter from the family member will be required.

Land for construction of Godown will be considered suitable, if it is freely accessible through all weather motorable approach road (public road or private road of the applicant connecting to the public road) and should be plain, in one contiguous plot, free from live overhead power transmission or telephone lines. Pipelines/Canals/Drainage/Nallahs should not be passing through the plot.”

9. With there being no ambiguity about what the requirement was, the Appellant could not have possibly pressed for her candidature only on the basis of her registered lease deed notwithstanding that the period of lease may have been more than 15 years for the land in question.

10. Consequently, the Court is unable to find any error in the impugned judgment of the learned Single that calls for any interference. The appeal is accordingly dismissed.

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11. In view of averments made in para-4 of the counter affidavit of IOCL that the advertisement was on account of a mistake, no further direction needs to be issued in the present writ petition and it is disposed of as such.

(Dr. S. Muralidhar)
Chief Justice

S. K. Guin/M. Panda



(Chittaranjan Dash)
Judge