

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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LPA-701-2022 (O&M)

Date of decision: 23.08.2022

Rajpati

.... Appellant

versus

Union of India & others

..... Respondents

LPA-702-2022 (O&M)

Rajpati

..... Appellant

VS

Union of India & others

..... Respondents

LPA-703-2022 (O&M)

Rajpati

..... Appellant

VS

Union of India & others

..... Respondents

**CORAM : HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH
HON'BLE MR. JUSTICE ALOK JAIN**

Present :- Mr.Jagdish Manchanda, Advocate
for the appellant

Mr. Ankur Sharma, Sr. Panel Counsel
for Union of India – respondent No. 1

Mr.Ashish Kapoor, Advocate
for respondents No. 2 to 4.

ALOK JAIN, J. :

Delay applications:

The instant applications for condonation of delay of 48 days in refilling the appeals are allowed for the reasons detailed in the applications which are duly supported by the affidavit of the counsel for the appellant.

LPA-701-2022(O & M)

LPA-702-2022(O & M)

LPA-703-2022(O & M)

This order shall dispose of the aforesaid Letters Patent Appeals preferred being aggrieved and raising challenge to the common judgment dated 20.04.2022 passed in CWP Nos.9511, 10173 and 10236 of 2016, wherein the respondents have rejected the application of the appellant for awarding LPG distributorship, vide its communication(s) dated 27.03.2016/31.03.2016/25.03.2016, as the appellant was found to be ineligible for the reason that she did not possess the land for showroom and godown as required at the advertised location.

Learned Counsel for the appellant has submitted that the rejection by the respondents was illegal and has laid stress by relying upon the fact that the appellant belongs to SC/ST category for which the eligibility criteria was specified in Clause 6.2.1(b), which reads as under:

“b) Scheduled Caste/ Scheduled Tribe Category (SC/ST):

The candidates belonging to castes/tribes recognised as Scheduled Castes/ Scheduled Tribes (SC/ST) under the Constitution of India will be eligible.

The candidates will be required to submit along with application a certificate issued by the competent authority notified by the Government of India certifying

that the candidate belongs to Scheduled Caste /Scheduled Tribe.

The selected candidate belonging to SC/ST category would also be required to submit within 90 days from the date of declaration of draw result, the original Caste Validity Certificate granted by the competent authority of the respective state, wherever applicable.”

Learned counsel for the appellant has vehemently tried to build an argument by further relying upon Clause 11.7 of the brochure wherein under the heading of Letter of Intent, a scheme for financial assistance to facilitate the selected candidates to obtain loan from scheduled commercial bank *inter alia* for providing LPG godowns, showrooms and LPG cylinder delivery infrastructure is available.

Clause 11.7 reads as under:

“7. SCHEME OF FINANCIAL ASSISTANCE TO SC/ST CATEGORY DISTRIBUTORSHIP

The Selected Candidate for the location reserved under SC/ST category has the option to avail the following Financial Assistance Scheme:

OMCs shall facilitate the selected candidate in obtaining the loan from scheduled commercial bank for providing the LPG Godown, Showroom and LPG cylinder delivery infrastructure. In this regard, if the banks require any margin money to be invested by the candidate in providing the above mentioned facilities, OMCs shall extend Financial assistance by way of a secured loan towards such margin money. The margin money shall however be limited to 1 Lakh for Urban market Distributorships and 0.60 lakh for Urban-Rural & Rural market Distributorship or 20% of the total project cost against which the loan has been sanctioned by Bank, whichever is lower.

The secured loan towards the margin money will be provided to Distributorships reserved for SC/ST categories at (SBI PLR + 1%) interest per annum. This loan as well as interest will be recovered at the rate of 20% of distributor's commission.

Adequate working capital loan at (SBI PLR + 1%) interest per annum, for a full operation cycle of the operation of the distributorship will also be provided. Both the working capital as well as interest thereon will be recovered in 100 equal monthly installments from the 13th month of commissioning of the Distributorship.”

Learned counsel has argued that a joint reading of the eligibility criteria and the financial assistance to be provided to SC/ST category should be read interregnum and on this basis, in case the financial assistance would have been extended to the appellant, the said ineligibility would have been cured. The said argument has to be negated at the threshold for the reason that a perusal of the above, clearly shows that Clause 11.7 of the brochure relating to the scheme of financial assistance to the SC/ST category LOI holders and starts with the word “The selected candidate” which clearly demonstrates that the said financial assistance is only for those candidates who fulfill the eligibility criteria and are the selected candidates.

Further, if the argument of the appellant is taken to the logical end then every person will become eligible for the reason that they will claim the financial assistance even before becoming the selected candidate which is not the intention of the respondents. Clause 11.7 is only for the purpose of supporting a selected candidate in obtaining the loan from the scheduled commercial bank to the extent of any margin money that too only to the extent of ₹ 1 Lakh for Urban market Distributorships and ₹ 0.60 lakh for

Urban-Rural & Rural market Distributorship or 20% of the total project cost whichever is lower and the said amount is also be treated as a secured loan by the respondents.

Admittedly the appellant has failed to demonstrate that the reason for rejection of her candidature was wrong and incorrect and has not been able to show that she owned any land for showroom and godown as required under Clause 6(vii), which reads as under:

“6(vii). Should own as on the last date for submission of application as specified in the advertisement or corrigendum (if any):

a plot of land of minimum dimensions 25 M x 30 M (within 15 km from municipal/town/village limits of the location offered in the same State) for construction of LPG Godown for storage of 8000 Kg of LPG in cylinders. This plot of land for construction of godown not meeting the minimum dimensions of 25 M x 30 M will not be considered.

Or

a ready LPG cylinder storage godown (within 15 km from municipal/town/village limits of the location offered in the same State) of 8000 Kg capacity.

In case there are any state specific requirements/norms applicable for construction of the LPG Godown, then the same will be applicable for the respective Regular Distributorship locations and revised minimum dimensions of plot of land will be required as specified in the Advertisement of that respective State.

The plot of land or ready LPG cylinder storage godown should be freely accessible through all weather motorable approach road (public road or private road connecting road connecting to the public road). In case of private road connecting to the public road, the same should belong to the

applicant/member of Family Unit (as per the multiple dealership/distributorship norm of eligibility criteria) as per the ownership criteria defined below. In case of ownership/co-ownership by family member(s) in respect of such private road, consent letter from respective family member(s) will be required.

The land should also be plain, in one contiguous plot, free from live overhead power transmission or telephone lines. Canals/Drainage/Nallahs should not be passing through the plot. The land for construction of LPG godown should also meet the norms of various statutory bodies such as PWD/Highway authorities/ Town and Country Planning Department etc.

*In case an applicant has more than one suitable plot for construction of godown for storage of minimum 8000Kg of LPG in cylinders or ready LPG cylinder storage godown **as on the last date for submission of application as specified in the advertisement or corrigendum (if any)**, the details of the same can also be provided in the application.”*

Having heard the counsel for the appellant, since the appellant has not been able to cross the hurdle of becoming eligible, hence the application of Clause 11.7 will not come into play and the learned Single Judge has rightly held that Clause 11.7 does not provide for any financial assistance to purchase the land for godown/shop, nor is it in the nature of exception of Clause 6.1(VII) and (VIII).

Therefore, finding no infirmity or illegality in the judgment dated 20.04.2022 passed by the learned Single Judge, the same is affirmed and the orders dated 27.03.2016/31.03.2016/25.03.2016, whereby the application of the appellant was rejected being in-eligible is upheld. Consequently the appeals are dismissed.

In view of the disposal of the main appeals, all the pending miscellaneous applications also stand disposed of as such.

(AUGUSTINE GEORGE MASIH)
JUDGE

(ALOK JAIN)
JUDGE

23.08.2022
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No.