

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1630 of 2020

Ashok Kumar, Son of Bindeshwari Prasad Sinha, Resident of House No.4, Mohalla Baluahi, Ward No. 24, P.O. Mukhya Dakghar, Police Station and District- Khagaria.

... .. Petitioner/s

Versus

1. The Bharat Petroleum Corporation Ltd. LPG business head quarters, Bharat Bhavan, 4 and 6 Currimbhoy Road, Ballard Estate, Mumbai- 400001.
2. The State Head (LPG), Bihar, Bharat Petroleum Corporation Ltd., Exhibition Road, Patna.
3. The Territory Manager (LPG), Bharat Petroleum Corporation Ltd., Muzaffarpur LPG Territory, Village- Sherpur, near Narayanpur Railway Station on NH 28, P.O. MCI, Bela, Muzaffarpur.
4. Rajeev Prasad Singh Ranjan Resident of Flat No. 104A, Maa Shanti Vihar Apartment, Priyadarshi Nagar, P.S. Rupaspur, Bailey Road, District- Patna (Bihar) 801503.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sanjeev Ranjan, Advocate
For the Respondent/s : Mr. Siddhartha Prasad, Advocate

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR
and
HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 16-01-2023

Heard Mr. Sanjeev Ranjan, learned Advocate for the petitioner, Mr. Siddhartha Prasad for the respondent/BPCL and Mr. Pawan Kumar Chaudhary for the private respondent no. 4, who is the brother of the writ petitioner.

The petitioner had approached this Court for a direction to the respondent/Oil Marketing Company for taking into account the last wish of his father to induct the petitioner as a partner in conducting the affairs under the license given to the late father of the petitioner for running the outlet.



The petitioner contends that for all this while he had been managing the affairs of the LPG outlet and since respondent no. 4, though a Class-I heir of his late father, was in service and therefore he never took part in the dispensation of the responsibility of a licensee of an outlet and therefore after the death of his father, he ought not to be inducted as the licensee.

Respondent No. 4, however, submits that even if a license granted by Oil Marketing Company may not be inheritable as a property right but in view of the guidelines wherein on the death of a licensee, a re-constitution is required to be made, which is for the purposes of ease of business for the Oil Marketing Companies as also for the beneficiaries and keeping that object in mind, the requirement of obtaining "no objection" from the other Class-I heirs of the late licensee, he would also stake his claim for being considered as a licensee, either individually or in any other manner which would be acceptable to the OMC.

A preliminary objection was raised in the past, indicating that respondent no. 4 had been in service at the time when re-constitution was required to be done and therefore his being in service at that time attached a disqualification to his candidature but such objection cannot be entertained at this stage when for any reason the re-constitution could not be done nor any decision was taken by



the concerned OMC for continuing with or renewing the license.

The issue has to be decided at the time when the same is required to be considered.

It was under these circumstances, that this Court had granted time to the petitioner to find out whether the other Class-I heirs, who could have staked their claim for inheriting the license of late Bindeshwari Prasad Sinha are inclined to give "no objection" to the petitioner OMC.

The petitioner could not obtain a No Objection Certificate from all the Class-I heirs.

We are also of the view that the petitioner cannot be supported in his endeavour to steal a march over the other Class-I heirs, notwithstanding the fact that he had been helping his late father in running the outlet and that at one point of time, his father had declared his wish that he be inducted as a partner.

In that view of the matter, we dispose of this writ petition with a direction that in case the OMC considers the claim of the respective parties with respect to granting license, the individual cases of the petitioner and respondent no. 4 shall be taken into account and a decision shall be taken.

We are not asking the concerned Oil Marketing Company to advertise the vacancy afresh for the reason of ease of business as also for complete adherence to the rule of



house-keeping fixed for themselves in the event of death of a licensee during his tenure.

If the claim of all the stake-holders is not acceptable to the Oil Marketing Company for any reason whatsoever, it shall be open for them to decide it afresh in the manner in which such vacancy has to be filled.

We have clarified this for the reason that, for the present, there appears to be a dispute between the petitioner and respondent no. 4 regarding their claim, either for grant of fresh license or for re-constitution of the partnership firm.

The matter could have been decided earlier by the Oil Marketing Company either of accepting the contention of either of the parties or deciding to go for a fresh advertisement of the vacancy. Since it has been kept pending and the petitioner was asked by the Oil Marketing Company to obtain “no objection” when the claim of the petitioner could have been considered, instead of putting a kibosh on any such decision, the Oil Marketing Company would be obligated to consider it, on priority, the issue which has been explained in the preceding paragraphs.

With the afore-noted direction/observation, the writ petition stands disposed of.

It goes without saying that this exercise must be completed within a reasonable period of time, preferably within a period of sixty days from the date of



receipt/production of a copy of this order before the concerned authority of the Oil Marketing Company.

In the meantime, the status quo with respect to the license shall continue.

(Ashutosh Kumar, J)

(Satyavrat Verma, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	19.01.2023
Transmission Date	

