

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.25584 of 2013

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Nishant Kumar Trivedi S/O Devendra Tiwari R/O Village - Bijaipur, P.O. -
Bijaipur, P.S. - Bijaipur, District – Gopalganj ... Petitioner

Versus

1. The Union Of India through the Secretary, Ministry of Petroleum and National Gas, Govt. of India, New Delhi
 2. The Indian Oil Corporation Ltd. Through Its General Manager, Registered Office At G-9, Ali Yawar Jang Marg, Bandra (East) Mumbai - 400051
 3. The Chief Area Manager, Indane Area Office, Patna, Indian Oil Corporation Ltd. (Marketing Division) First Floor, Sahi Bhawan, Exhibition Road, Patna
 4. The Senior Area Manager, Indane Area Office, Patna Indian Oil Corporation Ltd. (Marketing Division) 1st Floor, Sahi Bhawan, Exhibition Road, Patna
 5. Amisha Kumari Srivastava D/O Satyendra Kumar Srivastava R/O Village - Bijaipur, P.O. - Bijaipur, P.S. - Bijaipur, Distt. - Gopalganj ... Respondents
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Appearance :

For the Petitioner : M/s Harsh Kaushal, Sachin Kumar and
Kuldeep Thakur, Advs.

For the IOC : Mr.K.D. Chaterjee, Sr. Adv. with
Mr. Amlesh Kr. Verma, Adv.

For Respondent 5 : Mr. Ranjan Kumar Shrivastava, Adv.

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

22 09-10-2023

Heard the learned counsel for the parties.

2. The present writ petition has been filed for the following relief(s) :

“..... for issuance of appropriate writs orders or directions for setting aside of or cancel the LPG distributorship given or issued in the name of Respondent No. 5 against the advertisement dated 26.02.2012 (Ann.-1) and further after cancelling the above said distributorship issued in the name of the Respondent No. 5, the Respondents authorities may further be directed to grant the LPG distributorship for Bijaipur Location (Distt.-Gopalganj) to the petitioner or to start the process of selection afresh with the rest of the applicants.”

3. Learned counsel for the petitioner has stated that



pursuant to the advertisement given by the Respondent-Corporation for inviting application for Liquefied Petroleum Gas (LPG) distribution-ship, the petitioner has applied for the grant of license. Learned counsel has stated that as per the advertisement given by the authority the applicants should have an area of 20 x 24 Sq. Mtrs. open space for the purpose of godown and show room besides other criteria. Learned counsel has stated that the authorities concerned without verifying the above factual requirement have granted license to the Respondent No. 5 (Amisha Kumari Srivastava). Counsel has argued that as on the date of making the application the Respondent No. 5 did not have any document to show that she was having any land standing in her name. That the sale deed executed in favour of the Respondent No. 5 was done by the vendor one day prior to the last date of submission of the application. Learned counsel has stated that the vendor of the Respondent No. 5 did not have any valid title as on the date of execution of the document in favour of the Respondent No. 5. Further it is stated that there was a suit for partition pending before the concerned District Court and till such time the rights of the parties are decided in the said suit the vendor of the Respondent No. 5 could not have executed the document in



favour of Respondent No. 5. Learned counsel has stated that the authorities concerned did not act on the representation made by the petitioner wherein he has stated the above mentioned facts. Further during the verification process, the verification team had given a report stating that the Respondent No. 5 did not have land in her name as on the date of application, yet the authorities have gone ahead and issued the license to the Respondent No. 5. Further it is argued that the selection of the Respondent No. 5 is marked by illegality, arbitrariness and favouritism in favour of the Respondent No. 5.

4. Per contra, learned counsel appearing on behalf of the Respondent-Corporation had vehemently opposed the very maintainability of the present Writ Petition and stated that the authority concerned duly taking into consideration the fact that the Respondent No. 5 had a valid title as on the date of making the application for grant of dealership has issued the license to the Respondent No. 5. Further, it is stated that the vendor of the Respondent No. 5 is none other than the father of Respondent No. 5 who has executed the document in favour of the Respondent No. 5. That the subject property is an ancestral property, therefore, the question of the vendor of Respondent No. 5 not having any title does not arise and, therefore, prayed



this Hon'ble Court to dismiss the present Writ Petition.

5. The counsel for the Respondent No. 5 has vehemently opposed the very maintainability of the Writ Petition and stated that the license was granted to the Respondent No. 5 way back in year 2013 and the Respondent No. 5 has already invested huge amounts and since the last ten years has been running the distributorship. Further it is stated that the Respondent No. 5 is having the eligibility for making the application and stated that the subject property was in the name of the Respondent No. 5 as on the date of making application. That once the Respondent No. 5 was found to be eligible for allotment of the land, the next stage of the selection is through lottery and the Respondent No. 5 was selected in the said lottery. Further, it is stated that the vendor of the Respondent No. no. 5 is none other than the father of the Respondent No. 5 and the subject property is an ancestral property, therefore, the question of there being any title document in favour of the vendor of the Respondent No. 5 is not contemplated under the law. Further, it is argued that vendor of the Respondent No. 5 is a defendant in the suit for partition and subsequently the suit for partition was withdrawn, therefore, there was no legal impediment or cloud on the title of vendor of



the Respondent No. 5. Learned counsel has also stated that the selection was made duly taking into consideration all the above relevant facts and the committee has selected the Respondent No. 5 for the LPG distribution-ship.

6. In reply the counsel for the petitioner has stated that the Respondent No. 5 has applied in her individual capacity and not as a joint family member. Further, it is stated that the mutation was done in the name of the Respondent No. 5 after the last date of the application.

7. As seen from the record the only question which arises in the present Writ Petition is as to whether the selection of the Respondent No. 5 was proper or not and whether the Respondent No. 5 had any title to the subject property as on the date of filing of the application.

8. Admittedly, in the present case, the document in favour of the Respondent No. 5 was executed prior to the last date of application by the father of the Respondent No. 5. Respondent No. 5's claim that the subject property is an ancestral property has not been denied by the petitioner herein. More over, the fact remains that the suit for partition was filed by some third parties in which the father of the Respondent No. 5 was arrayed as a defendant. Further, it is not denied that the



suit for partition has subsequently being withdrawn. Once the suit for partition is withdrawn by the plaintiff the cloud on the title Inspector of Factories any of the defendant stands extinguished. More over, it is a well settled principles of law that in any suit unless and until the plaintiff succeeds in the said suit, the rights which are vested in the defendant cannot be defeated.

9. Having regard to the fact that the suit for partition filed against the vendor of the Respondent No. 5 has been subsequently withdrawn, this Court is of the opinion that the Respondent No. 5 was having a valid title as on the date of filing the application for distribution-ship. Once it is held that the Respondent No. 5 was having a valid tittle as on the date of filing her application the selection of the Respondent No. 5 is deemed to be proper and in accordance with the norms set out in the Notification. This Court does not find any merit in the present Writ Petition which warrants any interference by this Court and the selection of the Respondent No. 5 for the distribution-ship cannot be faulted with.

10. The Writ Petition is, accordingly, **dismissed**.

(A. Abhishek Reddy , J)

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