

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.1477 of 2018

In

Civil Writ Jurisdiction Case No.14545 of 2018

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Pooja Kumari, D/o Phuleshwar Singh, Resident of -At-P.O.-Sisauni
Afzalabali, P.S.-Biraul, District-Darbhanga.

... .. Appellant/s

Versus

1. The Hindustan Petroleum Corporation Limited having its registered office at 17, Jamshedjee Tata Road, Mumbai
2. The Regional Manager, Eastern Region, Hindustan Petroleum Co. Ltd., having its Office at Purnea. L.P.G. Regional Office, H.P.C.L. Industrial Growth Centre, Maranga, Purnea
3. Deputy General Manager, H.P.C.L., Industrial Growth Center, Maranga, Purnea.
4. The Area Marketing Manager, H.P.C.L., Purnea L.P.G. Regional Office, H.P.C.L., Industrial Growth Centre, Maranga, Purnea
5. The Regional Coordinator, Eastern Regional Office, H.P.C.L., Purnea Having its Office at-L.P.G. Regional Growth Centre, Maranga, Purnea

... .. Respondent/s

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Appearance :

For the Appellant/s : Mr. Sanjay Singh, Sr. Advocate
Mr. Neeraj Kumar Singh, Advocate
Mr. Amlesh Verma, Advocate
For the Respondent/s : Mr. Neeraj Kumar Gupta, Advocate

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CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI

and

HONOURABLE MR. JUSTICE ARUN KUMAR JHA

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE P. B. BAJANTHRI)

Date : 20-03-2023

In the instant L.P.A., appellant has assailed the order of the learned Single Judge dated 02.08.2018 passed in CWJC No. 14545 of 2018.

2. Respondent- Hindustan Petroleum Corporation Limited (for short 'H.P.C.L') issued Advertisement for



appointment of LPG distributorship under RGGLV on 17.06.2017. The appellant, who was one of the prospective candidate for appointment of LPG distributorship, presented application for the location Sahasram at Darbhanga on 09.10.2017. Her candidature was rejected on the score that she did not fulfill the conditions stipulated in the Brochure on Unified Guidelines for selection of LPG distributors for June, 2017.

3. The appellant was fulfilling the portion of the conditions in the Clause-8(j) to the extent that she had prescribed size of the land and other things except that such land was not registered one and it was a lease agreement. On this issue, the claim of the appellant for appointment of LPG distributor was rejected. Thereafter, it is learnt that HPCL offered has to furnish any other plot or land and it is learnt that the appellant had produced material. However, it was registered beyond the last date i.e. after 17.07.2017. In this backdrop, the appellant filed CWJC No. 14545 of 2018, questioning the impugned action of the HPCL and it was rejected by the learned Single Judge vide order dated 02.08.2018. Hence, the present LPA.

4. Learned counsel for the appellant vehemently



contended that rejection of appellant's appointment for LPG distributorship is too technical. The appellant fulfills the criteria laid down in Para-8(j) to the guidelines. Except on the trivial issue to the extent that land possessed by the appellant was not registered one. Therefore, such a trivial issue could be condoned while appointing the appellant as a LPG distributor.

5. *Per contra*, learned counsel for the respondent resisted the aforesaid contention and submitted that there is no infirmity in the order of the learned Single Judge. It is further submitted that guidelines for selection of LPG distributor was well aware to the appellant and the conditions imposed in the guidelines cannot be relaxed since there is no provision for relaxation of any condition. Therefore, the LPA is liable to be dismissed.

6. Heard the learned counsel for the respective parties.

7. Undisputed facts are that the appellant was a candidate for appointment of LPG distributorship pursuant to the Advertisement dated 17.06.2017. Core issue involved in the present *lis* is whether the appellant fulfills the conditions stipulated in Paragraphs-1(w) and 8(j). Paragraphs-1(w) and 8(j) of the guidelines read as under:-

*"1(w) "Ownership" or "Own" for godown /showroom for Shehari Vitrak, Rurban Vitra, Gramin Vitrak and Durgam Kshetriya Vitrak Type of Distributorship means having:
a. Ownership title of the property*



or

b. Registered lease deed having minimum 15 yrs of valid lease period commencing on any day from the date of advertisement up to the last date of submission of application as specified either in the advertisement or corrigendum (if any).

Additionally, applicants having registered lease deed commencing on any date prior to the date of advertisement will also be considered provided the lease is valid for a minimum period of 15 years from the date of advertisement. The applicant should have ownership as defined under the term 'Own' above in the name of applicant/member of "Family Unit" (as defined in multiple dealership / distributorship norm of eligibility criteria)/parents (includes Step Father/Step Mother), grandparents (both maternal and paternal), Brother/Sister (including Step Brother & Step Sister), Son/Daughter (including Step Son/Step Daughter), Son-in-law/Daughter in-law of the applicant or the spouse (in case of married applicant) as on last date for submission of application as specified either in the advertisement or corrigendum (if any). In case of ownership/co-ownership by family member(s) as given above, consent in the form of a declaration from the family member(s) will be required.

In case the share of land in the jointly owned property by the applicant/member of 'Family unit' as defined in multiple dealership / distributorship norm)/parents & grandparents (both maternal and paternal) of the applicant or the spouse with any other person(s) meets the requirement of land including the dimensions required, then that land for godown/showroom should qualify for eligibility as 'own' land subject to submission of 'No Objection Certificate' in the form of declaration from other owner(s).

(Under line supplied)

8(j). Showroom *(Applicable only for Shehari Vitrak, Rurban Vitrak and Gramin Vitrak locations and not for Durgam Kshetriya Vitrak)*

The applicant should 'Own' a suitable shop for Showroom of minimum size 3 metre by 4.5 metre in outer dimension or a plot of land for construction of



showroom of minimum size 3 metre by 4.5 metre as on the last date for submission of application as specified either in the advertisement or corrigendum (if any) at the advertised location i.e. within the municipal/town/village limits of the place which is mentioned under the column of 'location' in the advertisement.

In case locality is also specified under the column of 'location' in the advertisement, the candidate should own a suitable shop of minimum size 3 metre by 4.5 metre in outer dimension or a plot of land for construction of showroom of minimum size 3 metre by 4.5 metre as on the last date for submission of application as specified either in the advertisement or corrigendum (if any) as per the standard layout in the said 'locality'. It should be easily accessible to general public through a suitable approach road.

in case an applicant has more than one shop of minimum size 3 metre by 4.5 metre in outer dimension or a plot of land for construction of showroom of minimum size 3 metre x 45 metre as on the last date for submission of application as specified either in the advertisement or corrigendum (if any) at the advertised location or locality as specified under the column of 'location' in the advertisement, the details of the same can also be provided in the application.

The applicant should have ownership as defined under the term 'Own' above in the name of applicant/member of "Family Unit" (as defined in multiple dealership/distributorship norm of eligibility criteria)/ parents (includes Step Father/Step Mother), grandparents (both maternal and paternal), Brother/Sister (including Step Brother & Step Sister), Son/Daughter (including Step Son/Step Daughter), Son-in-law/Daughter-in-law of the applicant or the spouse (in case either in the advertisement or Corrigendum (if any)). In case of ownership/co-ownership by family member(s) as given above, consent in the form of a declaration from the family member(s) will be required.

Applicants having registered lease deed commencing on any date prior to the date of advertisement will also be considered provided the lease is valid for a minimum period of 15 years from the date of



advertisement.

The same piece of land for showroom cannot be offered by more than one applicant for a particular location against the advertisement. In case it is found at any stage that the same piece of land for showroom has been offered by more than one applicant for the same location of the advertisement, then all such applications would be rejected or if selection has been done, then the same would be cancelled.

Opportunity to offer alternate land for Godown and/or showroom.

In case if the offered land for Godown and/or offered land for showroom by the selected candidate which is shown in the application is found not meeting the eligibility conditions/ requirements as stipulated in the advertisement/brochure/ application at the verification (FVC) stage, then the selected candidate can offer an alternate land which is owned by the applicant/member of the 'Family Unit'/ parents (includes Step Father/Step Mother), grandparents (both maternal and paternal), Brother/Sister (including Step Brother & Step Sister), Son/Daughter (including Step Son/Step Daughter), Son-in-law/Daughter in-law of the applicant or the spouse (in the case of married applicant) as on the last date for submission of application as specified either in the advertisement or corrigendum if any.

Selected candidate, who has been issued an Letter Of Intent (LOI) can offer an alternate land which is owned by the applicant/member of the 'Family Unit'/ parents (includes Step Father/Step Mother), grandparents (both maternal and paternal), Brother/Sister (including Step Brother & Step Sister), Son/Daughter (including Step Son/Step Daughter), Son-in-law/Daughter in law of the applicant or the spouse (in the case of married applicant) for construction of Godown/Showroom, in the advertised location provided the land originally offered in the application was meeting all the specifications as laid down in the advertisement and on the basis of which LOI is issued."

(Under line supplied)

8. Having regard to the conditions stipulated and the



appellant had not fulfilled the aforementioned conditions. Therefore, Writ Court cannot relax conditions. It is a policy decision of the HPCL and the Court cannot alter the conditions stipulated therein. Policy is entirely vested with the HPCL in the present matter, therefore, the appellant has not made out a *prima facie* case, so as to interfere with the order of the learned Single Judge and so also the decision of the HPCL.

9. Accordingly, the L.P.A. stands dismissed.

(P. B. Bajanthri, J)

(Arun Kumar Jha, J)

Balmukund/-
Ashish/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	24.03.2023
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