

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

The Hon'ble **JUSTICE BIBEK CHAUDHURI**

IA No.:CAN/2/2017 (Old No.:CAN/10638/2017)

In

WPA No. 23865 of 2014

Saikat Kundu

-Vs-

Indian Oil Corporation Ltd. & Ors.

For the Petitioner: Mr. Dinabandhu Chowdhury, Adv.,
Mr. Amal Kumar Saha, Adv.,
Mr. Iresh Paul, Adv.

For the respondent No.1 to 5: Mr. Manwendra Singh Yadav, Adv.,
Mrs. Saswati Chatterjee, Adv.,
Mrs. Satabdi Naskar Kundu, Adv.

Heard on: 22 June, 2023.

Judgment on: 12 July, 2023.

BIBEK CHAUDHURI, J. : –

1. This instant writ petition is filed by Mr. Saikat Kundu, who has challenged a communication dated 10.06.2014, from the respondents, Indian Oil Corporation, where he was informed of the disposal of his complaint regarding not being awarded the candidature of LPG Gas distributorship and a letter dated 28.07.2014 by which re-draw of lottery for the disputed location was announced.

2. On 09.09.2012, Indian Oil Corporation Ltd (IOC) invited application for appointment of Gas Dealer by making advertisement in the daily newspaper namely "Anandabazar Patrika." Initially the last date for the submission of the application was 12.10.2012, but it was extended to

21.10.2012. The petitioner, Saikat Kundu, submitted his application for the LPG distributorship vide application serial No. DGP/RG/AML/28 within the stipulated period of time. Clause 7 of the brochure on “Guidelines of Selection of Regular LPG Distributors” laid down the eligibility criteria to be fulfilled by a candidate for them to be granted the candidature as a gas dealer, one of them being that the candidates should own a plot of land with minimum dimension 26.15 meters by 27 meters for construction of godown for storage of 8000kg of LPG cylinders as on the date of application. Therefore, he offered the land admeasuring 37.05 meter x 31.325 meter. The said land consisted of two plots being Plot Nos. 421 and 422 at Mouza Bramhangram, P.S- Garbheta, District-Paschim Medinipur. The said Plots were taken under a lease from one Sri Sudhanshu Sekhar Ghatak on 10th October 2012. On perusal of the said lease deed it appeared that the petitioner had offered 17 decimal in Plot No. 421 and 7.5 decimal in Plot no. 422. The total land in Plot No. 422 is 25 decimal and it belonged to five distinct persons including the lessor of the writ petitioner. According to the respondent, the writ petitioner failed to demonstrate during Field Verification of Credentials (FVC) that there was any valid partition among the co-owners of plot no. 422 vis-à-vis their respective portions in the said plot, so as to demonstrate that the petitioner or his lessor had a demarcated and/or partible share from that of the other co-owners.

3. The manager of LPG sales, Durgapur Area Office, IOC Ltd. requested one Sri Bansi Badan Ganguli, Learned Senior Advocate of Judges Court, Midnapore, to conduct a search in respect of the land offered by the writ petitioner for the construction of the godown and show room for the

proposed LPG distributorship. The writ petitioner was called upon by authorities to submit partition deed as on the date of submission of his application from other co-owners, which he failed to produce. Therefore, the learned advocate was asked to submit a detailed report with certification as to whether the land is free from all encumbrances and legal complication, if any, for the construction of the godown on the land in case the distributorship is awarded to the petitioner. The learned advocate submitted a detailed report on title dated 27.08.2013 in respect of Plot No. 421 and 422, Khatian No. 181/1 Mouza Bramhangram, J. L. No. 513 and Plot No. 942/1583, Hal Plot No. 803, Khatian No. 86/1 Mouza- Amlagora, J.L. No. 482, P.S.Garhbetha, District-Paschim Medinipur, certifying that the present owner has good, clear, valid and marketable title and is in possession of the plots. Under cover of his said letter dated 27.08.2013 the Learned Advocate forwarded 18 documents, which included title report, bill, search report/receipt and various title deeds/lease deeds etc.. The last document i.e. the document against serial No. 18 is a Notarized Deed of Partition dated 29.08.2012, purported to have been entered between the co-owners of Plot No. 422 on 29th August, 2012. The first page of the said partition deed was a non-judicial stamp paper of the denomination of Rs. 10/-, and the same was taken in the name of Sudhangshu Sekhar Ghatak, the lessor of the petitioner.

4. A complaint was received from one Prasanta Kumar Bag, who was also one of the eligible applicant for the said location and participated in draw of lots together with the petitioner.

5. The report of the Field Verification Committee (FVC), which verifies the information given in the application by the applicant, yielded that the partition deed for the land against Dag No. 422 was not available on or before the last date of submission of application. Thus, the Field Verification Committee recommended non-issuance of Letter Of Intent to the writ petitioner for the location Amlagora- Garbeta, District - Paschim Medinipur. The Field Verification Committee further observed that the petitioner had relied on a forged deed of partition in respect of land in Plot No. 422 and the area of land in plot No. 421 alone will not meet the laid down requirement for construction of godown. Subsequently, the writ petitioner was informed about his rejection of candidature on 03.10.2013.

6. On 11.11.2013, the writ petitioner raised a purported dispute before the Executive Director (WBSO) IOC Ltd. Upon receipt of the letter dated 11.11.2013 from the writ petitioner the same was deliberated and the competent authority approved the proposal of nominating a single member committee to look into the grievance. The single member committee submitted its report observing that the allegations made in the complaint dated 11.11.2013 was not substantiated. The Single Member Committee report dated 17.01.2014 was placed before the competent authority being the Executive Director, West Bengal State Office, IOC Ltd. for approval and accordingly on perusal of the same, the report was approved and permission for conducting re-draw among the remaining eligible candidate was approved.

7. The writ petition filed by the petitioner challenging the order dated 03.10.2013 being WP No. 597(w) of 2014, was disposed of directing Indian

Oil Corporation Ltd., inter alia, to supply a copy of the order together with documents to the writ petitioner by 28.02.2014 and liberty was given to the petitioner to furnish reply to the same by 07.03.2014 and further IOC Ltd. was directed to dispose of the same by a reasoned order after granting opportunity of personal hearing to the writ petitioner. The writ petitioner vide letter dated 10.06.2014 was informed about disposal of his complaint dated 11.11.2013 based on the report of a Single Member Committee and all relevant documents were enclosed under cover of the said letter. The Learned Advocate for IOC Ltd. under cover of a letter dated 13.06.2014 forwarded Photostat copies of all relevant documents to the Learned Advocate-on- record for the writ petitioner.

8. The writ petitioner instead of submitting his reply to the order passed by the authorities within 7 days as directed in the solemn order dated 21.02.2014 passed in WP 597 (w) of 2014 filed the present writ petition being WP No. 23865 (w) of 2014, inter alia, for recall and/or setting aside the impugned order dated 10.06.2014 and 28.07.2014.

9. Upon the said writ petition being moved, this Hon'ble Court in terms of an order dated 01.09.2014 in WP No. 23865 (w) of 2014 directed the Superintendent of Police, Paschim Medinipur to conduct an enquiry and submit compliance report before the Hon'ble Court. Pursuant to order dated 01.09.2014 in WP No. 23865 (w) of 2014 the Dy. Superintendent of Police (Administration), Paschim Medinipur submitted a report, making a categorical assertion that the stamp paper in question bearing serial no.64AA306249 was not sold before 10.05.2013 by the Treasury Office or the stamp vendor Mr. Mintu Kumar Mondal. Admittedly, the partition deed

which was printed on the stamp paper bearing serial no.64AA306249 was dated 29.08.2012 and the notary seal is also dated 29.08.2012. Therefore, the respondents are asserting that it is proved beyond any reasonable doubt, the stamp paper used for printing the purported partition deed dated 29.08.2012 was released from the treasury office only on 10.05.2013 and as such the same could not have been available on 29.08.2012.

11. Under the factual backdrop stated above, the petitioner prayed for issuance of writ in the nature of mandamus commending the respondent to rescind, recall and/or set aside the orders dated 10th June, 2014 as well as 28th July, 2014. The petitioner also prayed for a direction upon the respondents to send the case of the petitioner before the appropriate authority for issuance of letter of intent and to consider his case without taking into consideration the alleged deed of partition which was not submitted by the petitioner.

12. I have heard the learned Counsels for the petitioner and the respondent at length.

13. It is on record that previously the petitioner filed a writ petition being WP No.597(w) of 2014 which was disposed of by a Coordinate Bench on 21st February, 2014 by passing the following order:-

“In my view, as I find that the impugned intimation dated 3rd October, 2013 cancelling the candidature of the petitioner was without complying with the principles of natural justice and since the Indian Oil Corporation authorities, as evident from the submission of the learned advocate for the respondents have rejected the representations dated 28th October, 2013 and 11th November, 2013 without giving an opportunity of hearing to the petitioner, the impugned intimation dated 3rd October, 2013 and the subsequent order of rejection, are set aside and quashed. The writ petition is allowed. In the facts and circumstances, the

authorities of the Indian Oil Corporation are directed to supply a copy of the order passed, along with the documents relied on, to the petitioner by 28th February, 2014. Thereafter, the petitioner is at liberty to furnish a reply to the same by 7th March, 2014 and in that event the authorities of the Indian Oil Corporation shall dispose of the same by passing a reasoned order in accordance with law to be communicated to the parties within 18th March, 2014 after giving an opportunity of hearing to the petitioner.”

14. Thus, the petitioner was given liberty to approach the Indian Oil Corporation Authority and the IOC Authorities were directed to dispose of the representations filed by the petitioner dated 28th October, 2013 and 11th October, 2013 which were rejected by the respondents. The petitioner, however, without taking part in the hearing as per direction made by this Court vide judgment/order dated 21st February, 2014 has filed the instant writ petition with aforesaid prayer.

15. It is the foundation of the case of the petitioner that he obtained lease in respect of dag No.421 and part of dag No.422. In order to prove the vicinage of the two plots, the petitioner filed a notarized deed of partition. It is needless to say that a partition can only be executed by virtue of a registered deed or by a decree of the court. Section 14 of the Land Forms Act is absolutely clear on this point. Therefore, the deed of partition does not have any bearing in the instant writ petition for consideration of petitioner's prayer. Moreover, it is on record that the non-judicial stamp paper on which the alleged partition deed was made and notarized was purchased from the treasury sometimes in 2013 and as per the complaint made by the stamp vendor it was stolen or misplaced. On such stamp paper which was issued in the year 2013 by the treasury, a deed of partition purportedly executed by

the co-sharers of plot No.422 was executed in the year 2012. Thus, the said deed of partition which is the basis of the quantum of the land allegedly possessed by the petitioner, is a forged, unregistered document which cannot be relied on by any court of law.

16. In view of such circumstances, this Court has no other alternative but to hold that the petitioner has failed to establish eligibility criteria with regard to possession of land upon which a godown for storage of LPG gas cylinders were proposed to be erected.

17. For the reasons aforesaid, I do not find any merit in the instant writ petition and the same is dismissed on contest, however, without cost.

(Bibek Chaudhuri, J.)