

Form J(2)

**IN THE HIGH COURT AT CALCUTTA
Circuit Bench at Jalpaiguri
Constitutional Writ Jurisdiction
Appellate Side**

**Present :
The Hon'ble Justice Bibek Chaudhuri**

**IA No.: CAN/1/2023
in
WPA 18 of 2021**

**Suraj Kumar Gupta
-Versus-
The Indian Oil Corporation Ltd. & Ors.**

**For the Petitioner : Mr. Pratap Khati,
Mr. Ranjan Sharma**

**For the State : Mr. Bikramaditya Ghosh,
Ms. Sreemoyee Ghosh Majumder**

Heard & Judgment On : 9th February, 2023.

Bibek Chaudhuri, J.

The petitioner is a differently abled person, as per the submission made by the learned Advocate for the petitioner, as a result of locomotive accident. The petitioner prayed for distributorship of LPG Gas to the Indian Oil Corporation Limited (IOCL). The IOCL drew up lots on 5th November, 2018 and found the petitioner being the successful bidder. The petitioner was asked to deposit a sum of Rs.40,000/- in favour of IOCL. The petitioner duly

performed his part. However, vide order dated 21st January, 2019 the IOCL rejected the petitioner's application on the following grounds:-

- Offered lease land is not sufficient for construction of godown and showroom. Land is not registered in the name of lessor-Sabiya Khatun as on the last date of application i.e., 18.10.2017.
- Offered land for godown and showroom is 17 decimal out of total land 23 decimal and it is in the name of Lessors' husband-Noor Mohammad who had expired before making lease deed and Sabiya Khatun (Lessor) has not taken consent from her Two daughters and son before making the lease deed.
- Total land in the name of Lessors' husband – Noor Mohammad is 23 decimal and share portion of Lessor – Sabiya Khatun is only 2.875 decimal land (as per affidavit of Executive Magistrate) and it is not sufficient land. Hence, godown and showroom land found not eligible and suitable as per Unified Guidelines for election of LPG Distributors.
- You were advised by FVC committee to provide an alternate land vide letter ref:FVC/Mahua/OPEN

(PH)/WB/2018 dated 08.01.2019. However, you replied vide letter ref no. Mahua/Gramin/01 dt. 08.01.2019 mentioning that you do not have any other alternate land for LPG godown and showroom at advertised location – Mahua, Dist: Uttar Dinajpur (WB) and offered land in the application is the final offered land for LPG godown and showroom.

In view of above, your candidature is rejected and the amount of Rs.40,000/- deposited with corporation stands forfeited in line with LPG distributorship selection policy of the corporation.

It is the further case of the petitioner that the petitioner made a representation through his Advocate to the Managing Director of Indian Oil Corporation Limited as well as the Ministry of Petroleum on 24th June, 2020 i.e., after a lapse of about one and half years.

Specific objection of the IOCL is that the proposed site for construction of showroom and godown is a leasehold property, the lessee being the petitioner herein. He took lease from one Sabia Khatun. The land in question was registered in the name of Sabia Khatun. The area of land under the ownership of the lessor, namely, Sabia Khatun is 17 decimal out of total 23 decimal, originally the said land was owned by one Noor Mohammad, deceased husband of Sabia

Khatun. Said Noor Mohammad died leaving behind his widow, two daughters and one son. They are not included as lessors in respect of lease hold property. It is also stated that 17 decimals of land is not sufficient for construction of godown and showroom. So, the prayer was rejected.

It is contended on behalf of the petitioner that subsequently the petitioner obtained 'no objection' certificate from the son and daughters of the original owner Noor Mohammad. Be that as it may, till date the petitioner has failed to show that he is a lessee in respect of requisite area of land that is necessary for construction of a showroom and godown as per unified guidelines for selection of LPG distributors. In the instant writ petition the petitioner submitted another lease deed executed by and between him and one Mr. Jamiruddin. However, it was not supplied along with the application for drawing up of lots. It is also learnt from the learned advocate for the respondents that after rejection of the application of the petitioner LPG distributorship has been granted to another person in the concerned area.

Considering the facts and circumstances of the case, this Court is of the view that the decision of this Court in **Atulanand Singh versus Indian Oil Corporation Ltd. and Ors.** (WPA 4839 of 2021

decided on 16th August, 2021) is not applicable under the facts and circumstances of the case.

Learned advocate for the petitioner submits that IOCL being a Government of India undertaking is bound to act fairly. The petitioner has failed to demonstrate any unfair act on the part of the IOCL in the instant writ petition. The last limb of argument of the petitioner is that the petitioner is a differently abled person. It is observed by the Hon'ble Supreme Court in **Justice Sunanda Bhandare Foundation versus Union of India and Another** (I.A. No. 10 of 2015 in Writ Petition (Civil) No.116 of 1998) that the State must take all efforts to bring differently abled persons within the fold of common members of the citizens of this country.

There is no dispute on the issue that the differently challenged persons cannot be discriminated only on the ground of their disability. They must be treated equally with normal persons. I am not saying that the petitioner is not entitled to take part in getting the dealership of LPG gas from IOCL and he duly participated in the process of grant of licence of LPG distributorship. However, his prayer was rejected on the ground that he does not have requisite land to construct a showroom and a godown at that spot as per the Unified Guidelines for selection of LPG distributor.

Accordingly, I do not find any violation of right to equality in respect of the petitioner. Therefore, the instant writ petition is **dismissed** on contest, however, without costs.

This will not, however, disentitle the petitioner to make a fresh application for distributorship once a new advertisement is launched by the IOCL.

In view of disposal of the writ petition the connected application is also disposed of.

(Bibek Chaudhuri, J.)