

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

104**CWP-3970 of 2023****Date of Decision:23.03.2023**

Tasvir Chand

....Petitioner(s)

Versus

Bharat Petroleum Corporation Ltd. and others

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Ms. Sukhveer Kaur, Advocate,
for the petitioner.

Mr. Ashish Kapoor, Advocate,
for respondents No.1 and 2.

Mr. Dinesh Mahajan, Advocate,
for respondent No.3.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *certiorari* for quashing of the order/letter dated 24.10.2019 (Annexure P-4) whereby the candidature of the petitioner for allotment of retail outlet dealership at village Pindi Rangor (on Bhamni-Dinanagar Road) Tehsil Dinanagar, District Gurdaspur under SC category has been declared ineligible and rejected.

Learned counsel for the petitioner submitted that the respondent-Corporation had advertised for allotment of rural retail outlet at different places and the subject matter of the present site was village Pindi Rangor (on Bhamni-Dinanagar Road) Tehsil Dinanagar, District Gurdaspur under the SC category

in which the petitioner had applied under Group-1 category because he had mentioned the land which was available to him for which he was the sole candidate. The further process was undertaken by the respondent-Corporation in this regard on the basis of the land which was being made available by the petitioner in the application form. However, thereafter the respondent-Corporation had issued a letter to the petitioner that the land offered by him was not found in Group-I and therefore he was to be considered now under Group-III in view of the condition of the brochure and was also advised to submit his offer through the online portal which was given in the letter. Learned counsel for the petitioner submitted that thereafter the petitioner had submitted the alternate land to the respondent-Corporation vide Annexure P-3 through an e-mail but despite the fact that the same was sent to the respondent-Corporation the same was not considered and rather the allotment has now been made to respondent No.3 which was therefore arbitrary action on the part of the respondent-Corporation.

On the other hand, Mr. Ashish Kapoor, learned counsel appearing on behalf of the respondent-Corporation has submitted that he has sought instructions in the present matter to state that the petitioner had earlier applied under Group-1 category which was duly considered but the site where the retail outlet was to be established was advertised to be at village Pindi Rangor (on Bhamni-Dinanagar Road) Tehsil Dinanagar, District Gurdaspur whereas in the application form he had offered the land at village Bhamni and not at village Pindi Rangor and therefore on verification it was found that the land which was offered in the application filed by the petitioner was not fulfilling the requirement of the advertisement and therefore in view of the conditions of the

brochure he was written a letter dated 24.10.2019. Learned counsel has supplied a copy of the aforesaid letter to the Court during the course of proceedings and the photocopy of the same is taken on record as Mark-X.

Learned counsel for the respondent-Corporation submitted that this letter was issued to the petitioner because the land which he had offered by applying in Group-I was not confirming to the specifications of the advertised land and it was in some other village and therefore he was rather advised to offer an alternate suitable land through the online portal <https://www.petrolpumpdealerchayan.in/> within three months so that his candidature can be considered alongwith the other candidates under Group-III and in this way in case the petitioner offered any land for being considered under Group-III, the same could be considered in accordance with law. However, the petitioner did not submit any alternate land even after the issuance of the aforesaid letter dated 24.10.2019. He submitted that so far as the Annexure P-3 which has been attached alongwith the present petition which is purported to be an e-mail which according to learned counsel for the petitioner was sent by the petitioner to the respondent-Corporation pertaining to the alternate land is concerned, he submitted that a perusal of the aforesaid would show that an e-mail was sent to some other portal which is stated to be support@petrolpumpdealerchayan.in. He submitted that no such e-mail has been received by the respondent-Corporation because it was not the correct portal. He submitted that the procedure for the purpose of applying online is that the every candidate has an ID which he himself creates and thereafter the entire correspondence is done on the basis of invoking that ID on a portal which has been so stated in the letter dated 24.10.2019, but the petitioner

instead of using his own ID and accessing to the portal which was made available to him he wrote an e-mail to an addressee which was not accessible to the respondent-Corporation and he submitted that no such e-mail was received by the respondent-Corporation in this regard.

Mr. Ashish Kapoor further submitted that even otherwise also with regard to the land which purportedly the petitioner had offered vide Annexure P-3 pertains to an exchange of land which he has also attached alongwith Annexure P-3 from where it is clear that it appears to be an exchange of land but it is not a registered document and it appears to be an antedated document and even otherwise also the aforesaid land could not have been considered by the Corporation in view of Clause 4 (v) Note 1, which provides that the definition of 'own to' means having ownership by way of Registered Sale deed, Registered Gift deed, etc. or title of the property or registered long lease. He submitted that in the absence of any registered exchange of land even otherwise also the same could not have been considered. Learned counsel further submitted that since no alternate land was provided by the petitioner the case of respondent No.3 was considered and now the retail dealership has been granted to respondent No.3 which has since been commissioned on 25.02.2023 and he has already commenced the work.

Mr. Dinesh Mahajan, learned counsel appearing on behalf of respondent No.3 has submitted that even otherwise also the petitioner is not entitled for any relief in view of the fact that he has concealed material facts from this Court. He submitted that before filing the present petition, he had instituted a civil suit for declaration, permanent injunction and mandatory injunction with regard to the same cause of action and learned counsel has

supplied a photocopy of the order which has been passed by the learned Civil Judge (Junior Division) AT, Gurdaspur dated 09.12.2021 whereby the suit which was filed by the petitioner was dismissed under Order 7 Rule 11(a) CPC on the ground that no cause of action was disclosed by the petitioner/plaintiff of that case and the copy of the same is taken on record as Mark-Y. He also submitted that now a retail outlet has been granted to the petitioner on which he has commenced the work.

I have heard the learned counsel for the parties.

The grievance of the petitioner in the present case is that he applied for retail outlet under SC category in Group-I and he was the sole candidate for which he was entitled for the grant of retail outlet and in the application form he had given a detail of the land owned by him. The case of the respondent-Corporation is that the land which was given by the petitioner was not according to the specification of the advertisement since it was a land which was situated in a different village from where the respondent-Corporation wanted to set up the retail outlet and therefore the petitioner was written a letter dated 24.10.2019 (Mark-X) and he was to offer a land which he owns. However, a perusal of Annexure P-3 which is an e-mail written by the petitioner would show that the same is not through the registered portal and even as per learned counsel for the respondent-Corporation they never received the e-mail because this was not the correct method by which the petitioner was supposed to supply the details of the alternate land because the petitioner was supposed to use the ID and go to the portal and thereafter the communication was to be addressed and it is a specific case of learned counsel for the respondent-Corporation that he never received the aforesaid e-mail. The

arguments raised by learned counsel for the respondent-Corporation seems to be just and proper.

Apart from the above, even the document which has been attached alongwith the aforesaid Annexure P-3 would show that it is an Exchange Deed which is not a registered document and therefore in view of the Clause 4 (v) Note 1 of the brochure, the same was also not required to be considered by the respondent-Corporation even assumingly the Corporation was informed with regard to the aforesaid Exchange Deed.

Therefore, this Court is of the view that once the petitioner was given an offer for grant of alternate land for which he was not able to give an alternate land then it was just and proper for the Corporation to have proceeded further in accordance with the brochure for considering the remaining candidates from Group-III and consequenlty in case they have proceeded for consideration under Group-III candidates and have allotted a retail outlet to respondent No.3, the action cannot be termed to be perverse or contrary to any law.

Therefore, finding no merit in the present writ petition, the same is hereby dismissed.

(JASGURPREET SINGH PURI)
JUDGE

March 23, 2023

dinesh	Whether speaking	:	Yes/No
	Whether reportable	:	Yes/No