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

CWP-12149-2020

Date of Decision: 08.02.2023

Atma Ram

..... Petitioner

Versus

Indian Oil Corporation Limited and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Suryaveer Singh Surjewala, Advocate for
Mr. Sunil Kumar Nehra, Advocate,
for the petitioner.

Mr. Ashish Kapoor, Advocate,
for respondent Nos.1 to 3.

Ms. Nidhi Garg, AAG, Haryana.

JASGURPREET SINGH PURI, J. (ORAL)

The present writ petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing the impugned communication/order dated 26.07.2020 (Annexure P-19) vide which the cancellation of the advertisement for the location which was allotted to the petitioner in the SC Category has been approved by the competent authority with a further prayer for quashing the impugned communication/order dated 28.07.2020 (Annexure P-20) vide which the petitioner was informed that the action taken by the Indian Oil Corporation is in line with the Corporation Guidelines regarding Dealer selection.

The brief facts of the present case are that the respondent-

Corporation which is the Indian Oil Corporation-respondents No.1 & 2 had advertised on 25.11.2018 vide Annexure P-1 for grant of retail outlets for petrol pump and for that purpose various persons/candidates had filed their applications including the petitioner. As per the procedure contained in the brochure, the selection process was by way of draw of lots and on the aforesaid basis, the draw of lots was conducted and the petitioner was successful in draw of lots vide Annexure P-5. Thereafter, the respondent-Corporation started physical verification and other procedural verifications so that the process may be finalized. The advertised location as per Annexure P-1 Advertisement was Village Jhumpa, NH-65 (New NH-52) LHS Towards Rajgarh, District Bhiwani, State of Haryana. The aforesaid location is reproduced as under:-

“In Village Jhumpa, NH-65 (New NH-52) left hand side towards Rajgarh.”

When the process was still going on, the respondents-Corporation were satisfied that there was some confusion/ambiguity in the name of village where the proposed site was to be set up and the name of the village which has been mentioned in the Advertisement was 'Jhumpa' whereas in fact this Village Jhumpa itself was never in existence but it appeared that there were two villages i.e 'Jhumpa Khurd' and 'Jhumpa Kalan' and in view of the aforesaid ambiguity in the name of the aforesaid village itself, the respondent-Corporation invoked Clause (e) of Guidelines on the selection of the Dealer regular rural retail outlets wherein it has been so provided that the feasibility of the identified location would be prepared vide Annexure A-1 and A-2 by the concerned Divisional/Regional/Territory

Office and that the identified location should be specifically defined/clearly identified by giving illustrations including the name of the village as per the Revenue Record and it has also been provided in the aforesaid Clause that it should be ensured that there is no confusion/ambiguity in understanding of the boundary/stretch, etc. of the location by all the concerned. The aforesaid provision under Clause E is reproduced as under:-

*“E. **Feasibility** of the identified location would be prepared as Annexure A1 & Annexure A2 by the concerned Divisional/Regional/Territory Office.*

The identified location should be specifically defined/clearly identified. Some of the examples are:-

- Name of village(s) as per Revenue record*
- Name of colony/Sector, etc. as per Urban Development Authority/Municipality, etc.*
- Between specified KM Stones on identified road*
- With reference to landmarks at specified locations etc.*

Note: In case of stretches on SH/NH, the stretch of the locations should be minimus 2 Kms.

It should be ensured that there is no confusion/ambiguity in understanding of the boundary/stretch, etc. Of the location by all concerned.

Locations under Rural Marketing Plan should meet the norms of Rural ROs on the date of advertisement.

Thereafter, on the basis of the aforesaid problem with regard to the identification of the village/land itself, the respondents-Corporation decided to cancel the process of advertisement so that the same may be re-advertised again after properly ascertaining the place of land. It is the aforesaid letter which has been issued by the respondents-Corporation Vide

Annexures P-19 & P-20 whereby it was so stated that the advertisement has been cancelled and location may be included in the next advertisement with the correct name which has been so impugned in the present petition.

Learned counsel for the petitioner has submitted that once the entire process started and the draw of lots had taken place whereby the petitioner was declared as successful, there was no reason for the respondents-Corporation to have cancelled the advertisement since the aforesaid Village, namely, Jhumpa was in existence and even otherwise also the other petroleum companies, namely, Bharat Petroleum Company had advertised and allocatted petrol pumps by advertising the name of the Village as 'Jhumpa' and with the petitioner being declared as successful condidate, he was entitled for the allotment of the aforesaid petroleum outlet. He also submitted that there was no confusion or ambiguity with regard to the name of the village and the action of the respondents-Corporation was purely arbitrary, and therefore, cannot be sustained.

On the other hand, Mr. Ashish Kapoor, learned counsel appearing on behalf of the respondents-Corporation has submitted that in fact as per Clause (E), whenever an ambiguity or confusion is found with regard to the identification of land or Revenue Record, then rather it is incumbent upon the respondents-Corporation to take corrective measures. He further submitted that even perusal of the impugned letter (Annexure P-19) would show that after being cancelled, it has been so stated that the location will be re-advertised in the next Advertisement with corrected name, and therefore, submitted that no prejudice has been caused to the petitioner since no right has been vested in the petitioner because it was still

at the processing stage and no allotment has been made to anybody. He also submitted that the aforesaid Clause (E) has been rightly invoked by the respondents-Corporation, which is a public sector scheme and huge amounts of money is to be spent on the retail outlet and for that purpose clarity has to be there. He also referred to Annexure P-17, which has been attached by the petitioner himself whereby he sought information from the Tehsildar of the area in which it was so reported by the Patwari that in Tehsil Siwani Mandi, there is no village with the name of 'Jhumpa' but there is a village in the name of Jhumpa Kalan, the aforesaid report by the Patwari which is a part of Annexure P-17 is reproduced as under:-

“Dear Sir,

It is certified that in Tehsil Siwani Mandi, there is no any village in the name of Jhumpa whereas Village Jhumpa Kalan H.No.120, Tehsil Siwani Mandi, District Bhiwani is situated. The report is present as the revenue record.

*-Sd/-
Patwari
09.07.2020”*

The learned counsel for the respondents-Corporation has submitted that so far as the argument raised by the leaned counsel for the petitioner that by the same name of Village Jhumpa, other petroleum company like Bharat Petroleum Limited had allotted a retail outlet cannot sustain in view of the fact that each and every company is an individual company and the present company has to exercise power in its wisdom by taking all safeguards and to ensure that none of the provisions of the brochure and guidelines are violated and unless they are satisfied that the entire process will be completed properly by identification of land, it is

within their rights to cancel the advertisement and re-advertise the same. He has, therefore, prayed for dismissal of the present petition.

I have heard the learned counsel for the parties.

The only issue involved in the present case is with regard to the objection taken by the respondents-Corporation that in the advertisement they had mentioned the name of Village as 'Jhumpa' which later on they found that such Jhumpa Village is not in existence as per the report of the Patwari and other information received by them. As per the Clause (E) of the Brochure, which has been reproduced above, it is the duty of the respondents-Corporation to satisfy themselves with regard to the fact that there is no ambiguity or confusion with regard to the place and the land where they want to invest money so that retail outlet can be opened. Furthermore, vide Annexure P-19, they have not only cancelled the advertisement but they have also stated that they will readvertise with the new location. The plea raised by the learned counsel for the respondents-Corporation that it was the duty of the respondents-Corporation to have ensured that there is no confusion or ambiguity does carry weight. The respondents-Corporation is a public sector undertaking and they have to proceed with the allotment of retail outlet in a very diligent and conscious manner and in case they thought it fit and proper to invoke Clause (E) and to have cancelled the allotment site, on the ground that there is an ambiguity or confusion particularly on the basis of the report of the Patwari that the Village Jhumpa does not exist, it is certainly within the parameters of law.

So far as the argument raised by the learned counsel for the petitioner that other petroleum companies i.e. Bharat Petroleum Company

has granted retail outlet on the basis of mentioning of Village Jhumpa is not sustainable in view of the fact that each and every company is an independent company and if at all any error has been committed by any other company even for the sake of arguments, then such an error cannot be permitted to perpetuate. Otherwise also it lies within the domain of respondents-Corporation to satisfy itself with regard to the fact that the terms and conditions of the guidelines are satisfied in a proper manner.

Apart from the above, the entire process was still at the processing stage and mere fact that the petitioner was declared successful in the draw of lots would not mean that any right has been vested in the petitioner, since there was no concluded contract between the parties because there was no allotment made to anybody. Therefore, this Court is of the view that there is no illegality in the decision which was made by the respondents-Corporation in its wisdom and in accordance with the guidelines and the practical difficulties faced by them

In view of the above, finding no merit in the present petition, the same is hereby dismissed.

08.02.2023*Bhumika***(JASGURPREET SINGH PURI)
JUDGE**

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| 1. Whether speaking/reasoned: | Yes/No |
| 2. Whether reportable: | Yes/No |