

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

103

**2023:PHHC:124954
CWP No.10941 of 2023
Date of Decision:22.09.2023**

Sushila Devi

....Petitioner

VS.

Indian Oil Corporation Limited (IOCL) and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Rajesh Hooda, Advocate
for the petitioner
Mr. Ashish Kapoor, Advocate
for respondent No. 1
Mr. Raman Sharma, Advocate
for respondents No. 2 and 3

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner, through instant petition under Articles 226/227 of the Constitution of India, is seeking setting aside of notice of draw of lots dated 12.11.2017 (Annexure P/5) whereby respondent Nos.1 to 3 have proposed to allot new Gas agency within 7 Kms from the location of the petitioner's Gas agency. The petitioner is further seeking setting aside of result of draw of lots held on 25.04.2023 (Annexure P/11) whereby respondent No.4 has been declared as successful candidate.

2. Learned counsel for the petitioner inter alia contends that respondent No.1 has allotted another Gas agency within 7 Kms from the area of operation of the petitioner to respondent No.4. The minimum refilling units for the feasibility of a Gas agency are 5000 and maximum ceiling is

10,000. There is a descending trend in the turnover of the petitioner. The petitioner during 2021 re-filled 8632 units which reduced to 6694 during 2022 and further to 6526 during 2023. The petitioner does not dispute the location of another Gas agency on the basis of territory, however, the grievance of the petitioner is that there is already descending trend of turnover, thus, petitioner would not be able to survive, if another Gas agency is established in the vicinity of the petitioner. If the second Gas agency gets even 50% of customers of the area, neither the petitioner nor newly established Gas agency would be able to survive. Respondent Nos.1 to 3, ignoring their policy, have allotted another Gas agency.

3. Learned counsel for respondent No.1 submits that issue stands settled by judgment dated 21.11.2017 of Division Bench of this Court in **M/s Ashok Indane Gas Service and Another Versus Union of India and Others; LPA No.2212 of 2017**, wherein it has been held that a dealer cannot dictate to corporation the location of any other outlet. As per agreement executed between the petitioner and respondent No.1, it is prerogative of respondent to appoint any number of distributors in a particular area. No consent of the petitioner is required. Respondent No.1- corporation has conducted market survey prior to issuance of advertisement of second location, thus, there is no substance in the contention of the petitioner.

4. Faced with this, counsel for the petitioner submits that minimum refilling units for the feasibility of gas agency are 5000 and there are all possibilities that petitioner would not be able to achieve minimum feasible units if second agency is commenced. He further submits that

petition may be disposed of with liberty to the petitioner to move an appropriate representation before the respondents if petitioner at any stage gets less than 5000 cylinders for re-refilling.

5. In the wake of statements of both sides, the petition stands disposed of with aforesaid liberty. The respondents shall sympathetically consider representation of the petitioner, if so moved.

(JAGMOHAN BANSAL)
JUDGE

22.09.2023
paramjit

Whether speaking/reasoned: Yes
Whether reportable: Yes/No