

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

209

CWP-14460-2020

Date of Decision : 24.08.2023

Manju Bala

..... Petitioner

Versus

Union of India and others

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Sandeep Punchhi, Advocate
for the petitioner.

Mr. Ankur Sharma, Sr.Panel Counsel
for respondent No.1-UOI.

Mr.M.S.Rana, Advocate for
Mr. Ashish Kapoor, Advocate
for respondents No.2 to 4.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Article 226 of Constitution of India is seeking directions to respondents to issue letter of intent for allotment of retail outlet in the State of Haryana.
2. The petitioner pursuant to advertisement dated 25.11.2018 applied for the retail outlet. The petitioner deposited a sum of Rs.8,000/- as application money. The petitioner was declared successful candidate in the draw of lot. The petitioner deposited a sum of Rs.40,000/- on 16.02.2019 as directed by respondents. The respondents cancelled advertised site on the ground that as per record of different Government authorities, there is

difference in the name of village. The respondents had advertised site at village Makhosarani whereas as per revenue record it is Makhoshoran.

3. Mr.Sandeep Punchhi, Advocate *inter alia* contends that as per record of Transport and Education Department, the name of village is Makhosarani whereas as per revenue record it is Makhoshoran, however, there is one village, thus, respondents could not cancel the advertised site. The respondents have cancelled advertised just to favour someone else. The respondents have further reserved site for SC category, thus, the petitioner has become ineligible to participate in the selection process. The another site advertised by respondent is 10 kms away from the village of petitioner, thus, the petitioner will have to arrange another piece of land.

4. Mr.M.S.Rana, Advocate for respondents No.2 to 4 submits that there is no allegation against a particular person of connivance or fraud and respondent prior to issuance of letter of intent has cancelled advertised site. From the record of transport/education department vis-a-vis revenue record, it comes out that name of village as per revenue record 'Makhoshoran' whereas Corporation in the advertisement has disclosed name of village 'Makhosarani'. The Corporation being public sector undertaking does not want to create any confusion and invite litigation in future, thus, advertised site has been cancelled. The cancellation of site has not violated any fundamental or vested right of the petitioner. The Corporation as per its policy has reserved the site for SC category and it is not a case of exclusion of petitioner but all the candidates of general category are excluded. In support of his contention, Mr. Rana relies upon judgment of a Co-ordinate Bench of this Court in **CWP No.12149 of 2020, titled as “Atma Ram vs. Indian Oil Corporation Limited and others”**,

decided on 08.02.2023.

5. I have heard the arguments of learned counsel for the parties and perused the record.

6. A Co-ordinate Bench of this Court in Atma Ram's case (supra) has adverted with a similar issue and held that Corporation is empowered to cancel the site by invoking clause (E) of the brochure. The relevant extracts of the judgment read as :

“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.”

7. The above-cited judgment is squarely applicable to the facts of the present case. The petitioner was never granted letter of intent and he was only declared successful candidate in the draw of lot. The declaration of petitioner as successful candidate in the draw of lot does not create vested or fundamental right. The respondent-Corporation has every right to correct its mistake. The action of respondent cannot be called as discriminatory or violative of fundamental rights of the petitioner.

8. In the wake of above discussion and findings, this Court is of

the considered opinion that the present petition deserves to be dismissed and accordingly dismissed.

24.08.2023
anju

(**JAGMOHAN BANSAL**)
JUDGE

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>