

CWP-10049-2015

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2023:PHHC:158251

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-10049-2015

Date of Decision:11.12.2023

JASWANT SINGH

..... Petitioner

Versus

HINDUSTAN PETROLEUM CORPORATION LTD AND ORS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Pankaj Bali, Advocate
for the petitioner.

Mr. Raman Sharma, Advocate
for respondents No.1, 2 and 3.

Mr. Aman Dhir, DAG, Punjab.

Mr. Naveen Batra, Advocate
for respondent No.6.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of communication dated 17.09.2014 (Annexure P-16) and 20.04.2015 (Annexure P-20) whereby respondent- HPCL (for short 'Corporation') has decided to give opportunity to respondent No.6 to get NOC from Forest Department. The petitioner is further seeking direction to respondent- Corporation to issue LOI in favour of the petitioner.

2. The petitioner as well as 3 other candidates under SC category applied for LPG distributorship pursuant to advertisement dated 27.05.2013 issued by respondent- Corporation. There were 4 candidates and during document verification, 2 candidates were found eligible. A

draw of lot was conducted on 19.09.2013 and respondent No.6 was declared successful candidate. During field verification of land offered by respondent No.6, the Corporation found that land is protected in terms of Sections 4 and 5 of Punjab Land Preservation Act, 1900 (for short 'PLPA'). The respondent No.6 was asked to offer alternate land which he failed. The respondent-Corporation cancelled candidature of respondent No.6 and invited petitioner who offered land which was also covered by PLPA. The petitioner applied for NOC to Forest Department which agreed to issue NOC subject to LOI issued by Corporation. At this stage, the Corporation decided to invite respondent No.6 whose application was rejected on the sole ground that his offered land is covered by Punjab Land Preservation Act, 1900.

3. Learned counsel for the petitioner submits that Corporation could not invite respondent No.6 after cancellation of his candidature.

4. Learned counsel for respondents- Corporation submits that land of petitioner as well as respondent No.6 was covered by Sections 4 and 5 of Punjab Land Preservation Act, 1900, thus, it would have been unfair and unjustified on the part of Corporation had one opportunity not been granted to respondent No.6 because Forest Department had agreed to issue NOC to petitioner subject to LOI issued by the Corporation.

5. Learned counsel for respondent No.6 submits that if he is given opportunity to get NOC from Forest Department, subject to issuance of LOI, he would be able to get NOC from Forest Department within 6 weeks from the date of issuance of LOI.

6. I have heard the arguments of both sides and with the able assistance of learned counsel perused the record.

7. The advertisement was issued in May’ 2013 and till date distributorship is lying in limbo. Nobody has been issued distributorship because of pending litigation. The sole ground of challenge of the petitioner is that respondent No.6 did not challenge cancellation of candidature, thus, he could not be invited. The cancellation by Corporation was not a judicial or quasi-judicial order. It was an administrative decision and on the ground of parity, the Corporation without any *malafide* intention had decided to invite respondent No.6.

8. In the absence of allegation or evidence of manifest arbitrariness on the part of public authority, a decision can not be set aside especially when petitioner and respondent No.6 are similarly situated and action of Corporation *qua* respondent No.6 was neither judicial nor quasi-judicial. The petitioner is trying to make hay while sun shine.

9. In the wake of above facts and findings, this Court is of the considered opinion that present petition being devoid of merit deserves to be dismissed and accordingly dismissed, however, it is made clear that if respondent No.6 fails to get NOC from Ministry of Environment and Forest within 6 weeks from the date of issuance of LOI, the right of respondent No.6 shall stand fortified and Corporation shall issue LOI in favour of petitioner.

(JAGMOHAN BANSAL)
JUDGE

11.12.2023
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>