

CWP-16588-2021

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2023:PHHC:155205

205 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-16588-2021

Date of Decision:05.12.2023

BIJINDER SAINI

..... Petitioner

Versus

UNION OF INDIA AND OTHERS

..... Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Anjum Ahmed, Advocate for the petitioner.

Mr. Karanvir Singh Kathuria, Central Govt. Counsel
for respondent No.1-UOI.

Mr. Raman Sharma, Advocate for respondent No.2.

Mr. Anil Chawla, Advocate for respondent No.3.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Article 226 of the Constitution of India is seeking setting aside of communication dated 16.06.2021 (Annexure P-4) whereby candidature of the petitioner for the allotment of petrol pump has been cancelled.

2. The petitioner pursuant to an advertisement dated 25.11.2018 applied for the allotment of Rural Retail Outlet (petrol pump). The petitioner belongs to OBC category. There were two candidates who applied for the allotment of petrol pump. The petitioner was declared successful in the draw of lots. The petitioner offered a land which was rejected by respondent-Corporation. The petitioner vide communication dated 13.01.2020 was asked to offer suitable land within 3 months. The period of 3 months expired on 14.04.2020. Due to COVID-19 pandemic, the respondent put the matter on hold. The respondent vide letter dated 10.02.2021 granted another opportunity to respondent to offer land. The petitioner was granted time till 09.05.2021. The petitioner failed to offer land, thus, respondent-Corporation vide communication dated 16.06.2021

(Annexure P-4) rejected candidature of the petitioner and issued Letter of Intent in favour of second candidate. The petitioner vide representation dated 22.06.2021 requested the respondent to grant him time, however, respondent rejected request of the petitioner. The respondent-Corporation on 16.06.2021 issued LOI in favour of the respondent No.4.

3. Learned counsel for the petitioner submits that due to COVID-19 petitioner could not get NOC from HSVP and he applied for NOC on 17.06.2021 which was granted later on. The candidature of the petitioner has been rejected without considering the fact that while rejecting the candidature, he was granted 10 days time for making representation and during the said time, the petitioner requested for extension.

4. Per contra, learned counsel for the respondents submits that petitioner was granted 3 months time as per terms and conditions of the brochure. The petitioner was not asked to offer land till 10.02.2021 because of COVID-19 pandemic. The petitioner was again granted time vide letter dated 10.02.2021 but he failed to offer land even upto 15.06.2021. Under compelled circumstances, the respondent vide communication dated 16.06.2021 cancelled candidature of the petitioner. The respondent could not put the matter on hold for an indefinite period. Lapse, if any, was on part of the petitioner.

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

6. The petitioner was concededly granted 3 months time vide communication dated 13.01.2020. The respondent concededly put the matter on hold due to COVID-19 pandemic. The petitioner was given

another opportunity vide communication dated 10.02.2021. The petitioner due to COVID-19 pandemic got time from 13.01.2020 to 10.02.2021 but he did not avail the opportunity. The petitioner was asked to offer land by letter dated 10.02.2021 but he failed to offer land till 15.06.2021. The matter between the parties is purely a contractual matter. It is settled proposition of law that High Court cannot ask any agency to accept offer of a candidate/applicant unless and until there is gross violation of fundamental rights or statutory provisions or conditions of brochure. The petitioner has failed to point out violation of any fundamental right or statutory provision or conditions of the brochure.

In the absence of violation of fundamental rights or statutory provisions or conditions of brochure, this Court cannot ask respondents to accept offer of the petitioner and cancel LOI issued in favour of respondent No.4. It is apt to notice that had LOI not been issued to respondent No.4, the situation could have been different, however, in view of creation of right in favour of respondent No.4, it would be unjust and unfair on the part of this Court to set aside LOI issued in favour of respondent No.4 and ask the respondent-Corporation to issue LOI in favour of the petitioner.

7. In the wake of above discussion and findings, the present petition deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

05.12.2023
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>