

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.17800 of 2019 (O&M)
Date of Decision :13.12.2023

Venus Garg

.....Petitioner

Versus

Indian Oil Corporation and others

..... Respondents

CORAM: HON'BLE MR.JUSTICE ARUN PALLI, JUDGE
HON'BLE MR.JUSTICE VIKRAM AGGARWAL, JUDGE

Present : Mr. Deepak Gupta, Advocate for the petitioner.

Mr. Ashish Kapoor, Advocate for respondents No.1 and 2.
Mr. Deepak Sabharwal, Advocate for respondent No.3.

ARUN PALLI, J. (Oral):

The petitioner herein has prayed for the following substantive relief:-

“Civil Writ Petition under Article 226/227 of the Constitution of India for issuance of appropriate writ, order or direction especially issue writ in the nature of mandamus direct The Indian Oil Corporation Ltd. to get the vacant earmarked site of petrol pump in Sector-20 Panchkula from HUDA and establish retail outlet at that site in sec 20 PKL in a limited and defined timeframe and immediately allot the same to the petitioner in the interest of justice.

And further direct the IOC Ltd. to stay the proceedings of advertisement of two sites in sector 20, Panchkula and nearby as advertised in Nov 2018.

And further direct the respondent IOC Ltd. to allot any alternate established petrol pump in the nearby/close area to Panchkula of the same potential to the petitioner till the allotment of Sector-20 site to the petitioner, so that she may start her work.”

Learned counsel for the petitioner submits that pursuant to an advertisement dated 18.09.2011, issued by the Indian Oil Corporation Limited (IOC), applications were invited for appointment of petrol/diesel retail outlet dealers. The site at serial No.10, was advertised for retail outlet dealership, under Open Women Category, located in Sector 20 Panchkula, city. And as per terms of the advertisement, IOC itself was required to arrange a suitable land to establish a petrol pump and assign it to a successful candidate. He submits that the petitioner applied for the said location, pursuant to which, on 18.04.2012, she appeared for interview before the Selection Committee. For, she was selected for allotment of retail outlet dealership, the Letter of Intent (for short 'LOI') dated 26.09.2012, was issued in her favour. It is urged that allotment within the Urban Estate Panchkula, was regulated under the policies, issued by HUDA, from time to time. And as per which HUDA would provide land directly to the oil companies to set up retail outlets. However, the petitioner was informed by the Corporation, for no site, equipped with the necessary features, was available, she could not be assigned dealership at Sector 20, Panchkula. But the petitioner continued to pursue her interest with the Corporation. As a result, the Corporation, vide communication dated 12.11.2012 (Annexure P-6), addressed to the Chief Administrator, HUDA, requested for allotment of the proposed site as per the HUDA policy. But to no avail. Whereafter, it is urged, on the basis of the information collected under Right to Information Act, 2005, the petitioner, vide letter dated 10.08.2018, requested the Corporation, to consider her claim for allotment of an alternate site. Which was also not responded to. Rather, new retail outlets were advertised by the IOC along with the other oil companies. And, applications were invited for setting up a petrol pump at village Kundi and nearby

locations. Thus, it is submitted that IOC was apparently negligent in getting the site allotted, all these years. And interest of the petitioner continues to suffer.

The written statement on behalf of IOC has been filed and in essence the stand set out therein is that LOI was merely an intent to offer a retail outlet dealership and as recited in the LOI itself it could not be construed even as a firm offer to award dealership.

Respondent No.3 (HUDA) in its separate written statement has prayed for dismissal of the petition on account of mis-joinder of parties, for it had not concern with the process initiated by IOC for awarding a retail outlet dealership. It is averred that as per the policy of the HSVP (erstwhile HUDA), allotment of the site of petrol pump was made to the petroleum companies and not to the individuals. And the instructions in this regard were revised w.e.f. 05.09.2019. For, earlier the allotment of petrol pump/CNG/PNG station sites were made on 99 years lease, whereas HSVP in its 113th meeting held on 16.02.2018, resolved that allotment of any such site would, henceforth, be carried out only by e-tendering. Accordingly, the existing system of nominating the site as per petrol/diesel pump or CNG station was discontinued.

We have heard learned counsel for the petitioner and also the counsel for IOC as well as HUDA and perused the records.

Undoubtedly, the petitioner was short listed for awarding a retail outlet dealership at location Sector 20, Panchkula City, District Panchkula, under Open (W) Category. A LOI dated 26.09.2012, was issued to her by the IOC, subject, however, to the terms and conditions delineated therein. Clause 5 of the LOI, which has a decisive bearing, on the matter in issue, reads as thus:-

“This letter is merely a Letter of Intent and is not to be construed as a firm offer of dealership to you. The dealership to you will, on your complying with the conditions spelt out herein above be confirmed/formalized by an Appointment Letter and followed by the signing of the Standard Dealership Agreement (A copy of which can be obtained from this office).”

Further, neither any dealer ship agreement was executed between the parties nor the petitioner was issued any appointment letter assigning the retail outlet dealership. Accordingly, as to how, a concluded contract could even be claimed to have come in force is the question that assumes significance. Similarly, whether, in the given circumstances, the petitioner would have any legally enforceable right against the IOC, is yet another issue. It appears that inline with the HUDA policy, the IOC, in anticipation of allotment of a site, earmarked for a retail outlet in Sector 20, Panchkula, initiated the process of shortlisting a suitable candidate for awarding the retail outlet dealership. The assumption that finds resonance from the communication dated 12.11.2012 (P6), vide which, the IOC, post issuance of LOI, requested HUDA, to consider allotment of the said site in its favour. Nothing is placed on record either to show that HUDA (respondent No.3), at any given time, was contractually or statutorily obliged to allot the site in question to IOC. Concededly, the petitioner has not claimed any privity of contract with HSVP (HUDA) either.

At this stage, learned counsel for the petitioner, in reference to, page 105 of the paper book, submits that even today two vacant sites for petrol pump near village Kundi and near GH-94, in front of Sun City, Sector 20, Panchkula, are available for allotment. Therefore, it is urged that the petitioner

be permitted to withdraw the petition to enable her to move the IOC, to pursue the matter with respondent No.3, for allotment of any of the said site(s), particularly, as the petitioner has been diligently perusing her interest and cause all these years.

None of the counsel for the respondents opposes the prayer that has been advanced by learned counsel for the petitioner.

Accordingly as prayed for, the petition is dismissed as withdrawn.

(ARUN PALLI)
JUDGE

(VIKRAM AGGARWAL)
JUDGE

13.12.2023
Manoj Bhutani

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