

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

204)

CWP-16980 of 2013 (O&M)

Date of Decision:07.02.2023

Navneet Narwal

....Petitioner

Versus

Hindustan Petroleum Corporation Ltd. and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Aman Pal, Advocate,
for the petitioner.

Mr. Berjeshwar Singh Jaswal, Advocate,
for respondents No.1 and 2.

Ms. Nidhi Garg, AAG, Haryana
for respondent No.3.

JASGURPREET SINGH PURI, J. (Oral)

The present petition has been filed under Artiles 226/227 of the Constitution of India seeking a writ in the nature of *certiorari* for quashing of the impungned letter dated 04.01.2011 (Annexure P-4) and dated 28.02.2012 (Annexure P-12) by which the candidature of the petitioner was cancelled and he has not been granted the Letter of Intent/dealership of the retail outlet at village Manglora, Meerut Road, District Karnal in the OP category and the same has been rejected arbitrarily by the respondents Hindustan Petroleum Corporation.

The brief facts of the present case are that the respondent Hindustan Petroleum Corporation vide Annexure P-1 dated 30.04.2010 issued an advertisement for the purpose of allotting retail outlet and for that purpose the applications were invited in the OP category. As per learned counsels for the parties, the method of selection was a criteria which was based upon the marks which were to be allotted to different candidates based on different subject matters. The selection process for the purpose of selecting a candidate was completed and on 21.07.2010 and the result was published in which the petitioner was declared to be successful on the basis of marks awarded to him. One of the criteria for grant of marks pertained to possessing of land. Thereafter, one of the other candidates, who was not selected, filed a civil suit for declaration against the respondent Corporation by impleading the present petitioner as defendant No.8 to the extent that in fact the aforesaid plaintiff was entitled for the grant of allotment of the retail outlet. The said suit was ultimately withdrawn by him vide Annexure P-3 on 22.02.2011 and he also made a statement that he has no objection in allotting the outlet by the Hindustan Petroleum Corporation in favour of defendant No.8 who is the present petitioner. In this way, the aforesaid suit had culminated on the basis of withdrawal made by the plaintiff. However, in the meantime, vide impugned order/letter dated 04.01.2011 (Annexure P-4), the respondent Corporation had already informed the present petitioner that a provisional result was declared on 21.07.2010 whereby he was declared as a first empanelled candidate for the award of dealership and a complaint was received by the Corporation, which was investigated by the senior officer

and it was reported that the land offered by both the empanelled candidates is *shamlat deh* which cannot be leased to the Corporation and therefore benefit of the marks allotted to them cannot be given to them which in turn will fall below 60% of qualifying marks and in view of the above, the subject location will be re-advertised. It was further stated in the letter that notice was being sent to him for leading an opportunity to send his objections/comments, if any, within fifteen days. Thereafter, the petitioner filed objections vide Annexure P-11 and on the basis of the aforesaid objections the respondent Hindustan Petroleum Corporation again issued a letter/information vide impugned Annexure P-12 by stating that the land offered by the petitioner was *shamlat deh* and thus such land cannot be considered for setting up a retail outlet. In this way, the entire process for selection came to a halt and in fact terminated by passing an order vide Annexure P-12.

Mr. Aman Pal, learned counsel appearing on behalf of the petitioner has contended that once the petitioner has been declared to be successful in accordance with the criteria as laid down by the respondent Corporation itself and he was the first empanelled candidate for the purpose of award of dealership, then the ground on the basis of which he has not been allotted retail outlet was a non-existent ground and therefore the action of the respondents was arbitrary in nature. He submitted that the basic controversy in the present case was the nature of objections raised by the respondent Corporation that the land pertaining to the proposed site fell in village Manglore, Meerut Road, District Karnal and he submitted that

the aforesaid land was not a *shamlat deh* and the entries which were made in the *jamabandies* which have been attached as Annexure P-5 were wrong entries and in fact even as per the report of the Patwari vide Annexure P-7, the land was “Burdi Baramadagi” and the person who is cultivating the land at the spot is the owner of the said land. He submitted that once the land was falling in the aforesaid expression of “Burdi Baramadagi” then the petitioner was the owner of the land by virtue of the same and therefore the action of the respondent in rejecting the candidature of the petitioner on the ground that the land was *shamlat deh* was not proper and was rather arbitrary. He further submitted that in fact with regard to the land of the entire village and the adjoining land, a civil writ petition was also filed seeking finalization of the consolidation proceedings and the same was also disposed of by a Division Bench of this Court vide Annexure P-9 in CWP-12579 of 2008 on 03.11.2008 whereby the counsel for the State had so stated that the revenue records of village Manglora Qadim (the village in which the present site falls) especially *jamabandies* thereof will be corrected and finalized within three months from today and that appropriate directions will be issued to finalize the consolidation thereafter and the petition was disposed of. He submitted that thereafter no consolidation proceedings were undertaken and even contempt petition was also filed, which was also disposed of and the respondents were permitted to complete the consolidation proceedings on or before 31.08.2011. He submitted that in view of the aforesaid factual position, the candidature of the petitioner who was the empanelled candidate at first

position for retail outlet would not have been rejected by the respondent Corporation and it has affected his Fundamental Rights to carry on any profession under Article 19 of the Constitution of India.

On the other hand, Mr. Jaswal, learned counsel appearing on behalf of the respondent Corporation submitted that it is a case where the Corporation had issued an advertisement after identifying the village and thereafter the process started in which admittedly the petitioner was declared an empanelled first candidate for retail outlet. He submitted that thereafter the entire process with regard to the verification and identification of the precise land started and during the verification it was found on the basis of report from the revenue department that the land where the respondent Corporation wanted to set up the retail outlet falls in the land which was a *shamlat deh* even as per the prevailing *jamabandi* which has been attached alongwith the present petition as Annexures P-5 and P-14. He submitted that since the land did not belong to the petitioner nor he could have got it on lease because in case the land is *shamlat deh* then it belongs to the Panchayat and even if it is a common land then the management of the same also vests in the Gram Panchayat for the purpose of management and therefore the respondent Corporation in its wisdom came to the conclusion that the place where the Corporation was intending to invest money and to open a retail outlet, it was not fruitful for the Corporation to have done so because of the dispute with regard to the nature of land. He submitted that the respondent Corporation is a Public Sector Undertaking and before taking any decision it has to ensure itself

that the land would not create any problem and that the retail outlet would run in a smooth manner. He further submitted that during the pendency of the present petition, vide order dated 26.11.2019, the Deputy Commissioner was directed to file an affidavit with regard to the nature of the land and in compliance thereof, an affidavit of the Deputy Commissioner, Karnal dated 17.01.2020 was filed, vide which he had stated that the land in question is of a *shamlat deh* nature. Learned counsel submitted that even if the arguments raised by learned counsel for the petitioner that the nature of the land is not clear, still it was within the rights of the Corporation to have terminated the entire process once it came to its knowledge that the place where the petrol-pump is to be situated, was not clear with regard to the nature of the land and it falls within the wisdom of the Corporation to have taken a decision. He further submitted that even otherwise also the entire process was at the stage of selection process and there is no vested right in the petitioner to claim the letter of intent or allotment since the process had not been finalized.

I have heard the learned counsel for the parties.

At the outset, this Court had put a query to the learned counsel for the respondent Corporation that considering the present status of the land where they had proposed to set up the retail outlet as to whether they are interested in re-advertising pertaining to the same land or not to which the learned counsel for the respondent Corporation submitted that given the present status of the land at this stage, they will not re-advertise

pertaining to the same land which is the subject matter of the present writ petition.

In the entire selection process which was on its way till the time when the petitioner was declared as an empanelled first candidate for retail outlet, the process till the time of allotment was in its process and before any allotment or letter of intent being issued to the petitioner, his candidature has been rejected. This Court does not wish to make any observation with regard to the nature of the land since by way of CWP-12579 of 2008 (Annexure P-9) directions have already been issued to further process the consolidation proceedings. The Deputy Commissioner has also filed an affidavit by which he has categorically stated that the land is *shamlat deh*. However, the argument raised by learned counsel for the petitioner can be tested on the anvil of his right to claim a particular site as a petrol-pump site. It is an admitted position that the petitioner has not been allotted the aforesaid site till date nor any letter of intent has been issued in his favour and the process was still going on. In other words, there had been no concluded contract between the parties. The mere fact that the petitioner was declared as successful on the basis of marks assigned to him in the selection process would not vest any right in the petitioner to claim allotment. The Hindustan Petroleum Corporation is a Public Sector Undertaking and before setting up a retail outlet, it has to consider in its own wisdom as to whether the land is suitable for the purpose of allotment or not. The suitability of the retail outlet land was still under consideration and the selection process was still going on and

thereafter they took a decision that it is not possible for them to identify the land regarding which the nature of the land was not clear and they did not proceed further and rejected the candidature of the petitioner even if he was declared as an empanelled first candidate for retail outlet.

This Court is of the view that in the entire process since there was no concluded contract between the parties as of today, no legal right vested in the petitioner to claim a letter of intent in the aforesaid facts and circumstances whereby the nature of the land was in dispute. Therefore, considering no merit in the present petition, the same is hereby dismissed.

(JASGURPREET SINGH PURI)
JUDGE

February 07, 2023
dinesh

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