

203 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-12847-2017 (O&M)

Date of decision: 29.11.2023

UDEYVEER SINGH

...Petitioners

V/s

UNION OF INDIA AND OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Chanderhas Yadav, Advocate
for the petitioner.

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

Mr. Ashish Gupta, Advocate
for respondent No. 4.

JAGMOHAN BANSAL J. (ORAL)

1. The present petition has been filed under Article 226/227 of the Constitution of India praying for setting aside of order/letter dated 23.01.2017 (Annexure P-7) and the order/letter dated 24.05.2017 (Annexure P-11), whereby Petrol Pump has been allotted to respondent No. 4 and candidature of petitioner has been rejected.

2. The brief facts of the case are that pursuant to an advertisement dated 25.10.2014 issued by respondent No. 2-HPCL, the petitioner as well as respondent No. 4 applied for the allotment of Petrol Pump. The last date to apply was 26.12.2014 and the respondent No. 4 applied on 24.12.2014. The petitioner applied under Group II whereas respondent No. 4 applied under Group I. The advertised site was meant for SC category candidate. The respondent No. 2-HPCL on 25.02.2015, rejected candidature of the respondent No. 4, forming an opinion that there are eight co-owners of the

leased land whereas applicant has furnished consent of three co-owners. The petitioner was declared eligible on 18.05.2016 and draw of lots took place on 23.05.2016. The respondent No. 4 filed objections dated 31.05.2016. The respondent-corporation reconsidered documents placed on record by respondent No. 4 and vide order dated 17.10.2016 came to a conclusion that candidature of respondent No. 4 was rejected under wrong premise that there are eight co-owners of the leased land whereas there are three co-owners. It is apt to notice that respondent-Corporation on the earlier occasion rejected representation of the respondent No. 4. The respondent No. 2 vide its letter dated 23.01.2017 (Annexure P-7) declared respondent No. 4 as successful candidate. HPCL issued LOI dated 29.07.2017 in favour of respondent No. 4. In the interregnum, the petitioner filed objections which came to be rejected vide communication dated 24.05.2017 (Annexure P-11).

3. The counsel for the petitioner inter alia contends that respondent No. 4 got her lease deed cancelled on 20.04.2016. As the lease deed of respondent No. 4 was cancelled prior to draw of lots, thus, the respondent No. 4 could not be allotted dealership of Petrol Pump. The respondent No. 4 had furnished Haryana Resident Certificate after filing application. The said certificate furnished by respondent No. 4 is dated 13.03.2015 whereas last date to apply was 26.12.2014. The respondent-Corporation has co-operated with respondent No. 4 in all respects and their endeavour was to allot dealership to respondent No. 4. Learned counsel for the petitioner in support of his contentions relied upon judgment of Allahabad High Court titled as ***Manoj Kumar Rai Vs. Union of India through Secy. Ministry of Petroleum and Natural Gas and Others*** 2015 SCC Online All 7597,

Ramesh Chandra Mishra Vs. Indian Oil Corporation Ltd. Through Sr. Div. Manager(Rs) and Ors. 2015 SCC Online All 9360 and Madhya Pradesh High Court judgment titled as ***Smt. Sanghmitra Mandeliya Vs. Indian Oil Corporation*** 2015 SCC Online MP 2214.

4. Per contra, counsel for the respondent-Corporation and respondent No. 4 submitted that there was mistake on the part of the Corporation while scrutinizing lease deed furnished by respondent No. 4. There were eight owners of original land, however, partition took place and the land which was offered as leased land became property of three owners out of earlier eight owners. The respondent-Corporation wrongly considered eight persons as owners of the land whereas there were three co-owners. The respondent has rectified its mistake. The petitioner cannot take advantage of mistake of the respondent-Corporation. It is a settled law that no one can take benefit of mistake of another person. Respondent No. 4 submitted Haryana Resident Certificate at the time of filing application, however, its date was not as per requirement of the brochure. Respondent No. 4 on the asking of HPCL, submitted another certificate dated 13.03.2015. The mistake was a rectifiable mistake.

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

6. The conceded position emerging from the record is that pursuant to the advertisement dated 25.10.2014 issued by respondent-Corporation, petitioner as well as respondent No. 4 applied for allotment of dealership. The last date to apply was 26.12.2014. The respondent No. 4 applied under Group I as she was claiming that she has confirmed lease deed of 30 years. Petitioner applied under Group II. The respondent-Corporation scrutinized

documents of all the candidates and during scrutiny declared respondent No. 4 ineligible on the ground that she has not secured consent of all the co-owners of the land. The petitioner was found eligible on 18.05.2016 and draw of lots took place on 23.05.2016. The respondent No. 4 filed objections which initially came to be rejected, however, respondent-Corporation reconsidered her objections and found that there are three co-owners of the land offered by her and Corporation has wrongly considered eight owners of the land. The HPCL-respondent No. 2 vide its order dated 17.10.2016 declared respondent No. 4 as eligible. She had applied under Group I and there was no other candidate in Group I, thus she came to be selected vide communication dated 23.01.2017.

7. The claim of the petitioner is that respondent No. 4 has furnished documents at a subsequent stage and it is a settled law that documents furnished after cut off date cannot be considered. The petitioner has relied upon aforesaid judgments.

8. It is true that a candidate cannot be permitted to change his status as was on the date of filing application. A person who has applied under Group I cannot be permitted to file a different lease deed or a totally new lease deed at a subsequent stage. The facts of the present case are entirely different. Respondent No. 4 furnished lease deed which was valid in all respects. The respondent-Corporation under wrong premise declared respondent No. 4 ineligible. On reconsideration of documents, the Corporation found that there are three co-owners of the leased land and they have wrongly considered eight owners of the land. The respondent No. 4 had furnished consent of three owners who were co-owners of the leased land, thus, there was no question of consent of eight owners. The mistake on

the part of Corporation took place because previously there were eight owners of the leased land, however, partition had already taken place and on the date of application, there were three co-owners of the leased land. It is a settled proposition of law that no one can be punished for the mistake of anyone else and no one can claim benefit on account of mistake of anyone else. There was mistake on the part of the Corporation which they accepted and corrected. The petitioner is trying to take advantage of mistake of the respondent-Corporation. Respondent No. 4 was declared ineligible on 25.02.2015, thus, she got the lease deed cancelled on 20.04.2016. However, as soon as respondent-Corporation corrected its mistake, the respondent No. 4 got executed another lease deed which was with respect to same land and between the same parties.

9. The petitioner has raised another objection i.e. objection with respect to Haryana Resident Certificate. Admittedly, the respondent No. 4 at the initial stage, submitted certificate which was dated more than 06 months prior to the date of advertisement. Thus, it was not considered by respondent-Corporation and respondent No. 4 furnished another certificate dated 13.03.2015. The petitioner is only disputing that Resident Certificate was submitted post date of application. The respondent No. 4 at the initial stage, submitted Resident Certificate which was rejected on the ground that it is older than 06 months from the date of advertisement. The respondent-Corporation vide its letter dated 25.02.2015 asked the respondent No. 4 to furnish fresh Resident Certificate. In the said letter, it was categorically mentioned that it is a rectifiable deficiency. The said letter was issued prior to declaring the petitioner as eligible.

From the perusal of communication dated 25.02.2015, it is evident that since the beginning, opinion of Corporation was that Resident Certificate is a rectifiable defect. The respondent-Corporation in its communication dated 30.05.2016 had accepted that respondent No. 4 has rectified her mistake with respect to Resident Certificate.

11. In the wake of above discussions and findings, this Court is of the considered opinion that the present petition deserves to be dismissed and the same is hereby dismissed.

12. Pending CM(s), if any, are also disposed of accordingly.

(JAGMOHAN BANSAL)
JUDGE

29.11.2023

Ajay Goswami

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No