

CWP No. 16749 of 2020(O&M) -1- 2023:PHHC:096749

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 16749 of 2020(O&M)

Date of Decision: 28.07.2023

Yuvinder Singh

---Petitioner

versus

Indian Oil Corporation Limited and others

---Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Sanjiv Gupta, Advocate
 for the petitioner
 Mr. Ashish Kapoor, Advocate
 for the respondents

JAGMOHAN BANSAL, J. (ORAL)

CM-12085-CWP of 2023

Allowed as prayed for.

Additional affidavit on behalf of the respondents is taken on record. Registry is directed to tag the same at an appropriate place.

CM-12154-CWP-2023

Allowed as prayed for.

Additional affidavit alongwith Annexures P-17 to P-19 on behalf of the petitioner is taken on record. Registry is directed to tag the same at an appropriate place.

CWP No. 16749 of 2020

1. On 21.07.2023, the following order was passed by this

Court:-

“The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of termination order dated 15.02.2021 (Annexure P-16) whereby respondent-corporation has terminated dealership.

The case of the petitioner is that father of the petitioner was allotted petrol pump on 22.12.2010. He passed away on 27.06.2017. The father of the petitioner was sole proprietor of the concern to whom petrol pump was allotted. The petitioner vide application dated 17.07.2017 sought permission to operate petrol pump as he was one of legal heirs of the deceased. Father of the petitioner was survived by 5 children i.e. 3 sisters and 2 brothers. One sister of the petitioner has been convicted and remaining two sisters are gainfully employed. Brother of the petitioner is also gainfully employed. As per the petitioner, he is the only legal heir of the deceased who is eligible and competent to claim succession qua the petrol pump.

Mr. Ashish Kapoor, learned counsel for the respondents submits that dealership, on account of internal fight of legal heirs of the deceased, was terminated on 15.02.2021. He further submits that all the instruments i.e. tanks, dispensers etc. have been dismantled, thus, in any event it would not be possible to

allot petrol pump to the petitioner.

On being confronted with afore-stated fact, learned counsel for the petitioner seeks time to verify the factual position whether instruments are still lying installed or not.

Adjourned to 28.07.2023. To be shown in urgent.”

2. The petitioner has filed affidavit disclosing that building, tanks, pipelines, monolith and signage are still lying intact on the spot. The respondent has filed affidavit disclosing that tanks are lying embedded because of resistance by petitioner, however, all other equipments have been removed.

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

4. From the perusal of record, it comes out that petitioners are five siblings. It is only the petitioner, who in terms of policy of the corporation is eligible and his other siblings are ineligible on account of being gainfully employed or being convicted. The respondent is claiming that any siblings of the petitioner may resign from his job and claim ownership, however, as on date none of the sibling has resigned, thus, at this stage, it cannot be held that he/she is eligible. In the impugned order, it is noticed that one sister of the petitioner has objected to transfer of pump to the petitioner. She is gainfully employed, thus, she is not an eligible candidate. The petitioner is claiming that either he will amicably settled the disputes with his family members or they are ineligible. The respondent, while passing

the impugned order, has not considered the aspect whether sister of the petitioner, who is objecting, is eligible or not. It is undisputed fact that installation of a petrol pump is an arduous task. Oil company, in terms of Rule 144 of the Petroleum Rules, 2002 has to get no objection certificate from District Magistrate who seeks clearance/approval of different government departments prior to granting NOC. The allotment process itself is a very lengthy and complicated process. The petrol pump in question was installed in 2010 and it is on NH-44.

5. Considering all these facts and circumstances, this Court finds that respondent should re-consider whether siblings of petitioner are eligible to join pump or not. Accordingly, impugned order is set aside with a direction to respondents to pass fresh order after granting opportunity of hearing to the petitioner. The respondents shall consider whether siblings of the petitioner are eligible in term of policy of the corporation or not, whether they are ready to furnish no objection or not. If the petitioner is able to prove that his siblings are ineligible in terms of policy of the corporation or he is able to furnish no objection of the siblings, the corporation would consider case of the petitioner sympathetically and in accordance with its policy.

6. Fresh order shall be passed within three months from today.

28.07.2023*paramjit***(JAGMOHAN BANSAL)****JUDGE**

Whether speaking/reasoned : Yes

Whether reportable : Yes/No