

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

101

**CWP No.17931 of 2018
Date of Decision:01.09.2023**

Mukesh

....Petitioner

VS.

Union of India and others

....Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

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

Mr. Ankur Sharma, Senior Panel Counsel
for the Union of India

Mr. Raman Sharma, Advocate
for respondents No. 3 to 5

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 28.03.2018 (Annexure P-12) whereby Letter of Intent for LPG distributorship issued in favour of petitioner has been cancelled. Further a prayer for setting aside of communication dated 09.07.2018 (Annexure P-14) whereby other applicants have been called for fresh draw of lots.

2. The petitioner pursuant to advertisement dated 20.11.2013 of Hindustan Petroleum Corporation Limited-respondent No. 3 (in short

‘respondent-corporation’) filed an application for appointment of LPG distributorship. The petitioner was declared successful candidate in the draw of lots. The petitioner was issued Letter of Intent on 27.07.2016 with a condition to provide land for godown and showroom. The petitioner offered a piece of land for the purpose of construction of godown. The offered land was on lease. A complaint came to be filed against the petitioner alleging that offered land is owned by more than one person whereas lease deed has been executed by one person. The respondent-corporation asked the petitioner to furnish NOC from all the co-owners of the offered land. The petitioner submitted NOC from some of the co-owners, however, he could not submit NOC from all the co-owners. On account of non-furnishing of NOC from all the co-owners, the respondent-corporation vide impugned order dated 28.03.2018 (Annexure P-12) cancelled candidature of the petitioner.

3. Learned counsel for the petitioner inter alia contends that petitioner was not aware of the fact that offered land is owned by more than one person. The petitioner got executed lease deed. The petitioner later on, on the basis of complaint, came to know that there are more owners than one, thus, petitioner sought NOC from others. There was no lapse on the part of petitioner because revenue record was showing only one owner and other owners came into picture on account of civil suit. The petitioner acted with due diligence and respondent-corporation has mechanically cancelled candidature of the petitioner. Learned counsel further submits that petitioner offered alternative land which was not considered by the respondent-corporation.

4. Learned counsel for respondent-corporation inter alia contends that husband of the petitioner was also one of the applicants. The petitioner has enclosed with petition communication dated 09.07.2018 whereby it was informed that fresh draw of lots is going to take place on 21.07.2018. The fresh draw of lots took place on 21.07.2018 and another candidate was declared successful. Letter of Intent came to be issued to third candidate on 09.08.2018. The petitioner despite being aware of issuance of Letter of Intent to third party has not impleaded her as respondent. The third party commissioned gas agency w.e.f. 01.12.2018 and she is operating the same since then. Learned counsel further submits that the alternative land was not considered because the originally offered land was not suitable as per advertisement dated 20.11.2013

5. I have heard learned counsel for the parties and with their able assistance perused the record.

6. The conceded position emerging from the record is that the petitioner applied pursuant to advertisement and was declared successful candidate in the draw of lots. The petitioner offered a piece of land which was a leased land and lease deed was executed by one person. There were more than one owners of the land. The petitioner was given opportunity to get NOC from co-owners of land offered by him. The petitioner despite opportunity could not get NOC from all the co-owners.

7. It is undisputed fact that petitioner was issued Letter of Intent on 27.07.2016 and he offered leased land. As per the condition of advertisement, in case of leased property, petitioner was required to get NOC from all the co-owners. The petitioner might be unaware of ownership of

the land, thus, he got executed lease deed from one owner of the land. The petitioner was given sufficient opportunity to obtain NOC from other co-owners. In the impugned order, it is specifically noted that petitioner got NOC from few co-owners and he could not furnish NOC from the remaining co-owners. The petitioner could have a case, had he furnished NOC from all the co-owners though at a later stage, whereas, petitioner was declared successful candidate on 27.07.2016 and he could not get NOC from all the co-owners till the passing of impugned order dated 28.03.2018. The respondent-corporation has already granted LPG distributorship to a third candidate who has commenced its operation. The petitioner was very much aware of conducting of fresh draw of lots still petitioner has opted not to implead newly selected candidate. The petition was filed in July' 2018 and petitioner came to know of fresh draw of lots prior to filing the writ petition. The notice of motion was issued on 24.08.2018 and by that date Letter of Intent was already issued to another candidate. The petition is pending before this Court for the last five years and during this long period, the petitioner has opted not to implead selected candidate who has already commenced her operations.

7. In the wake of aforesaid facts and findings, this Court is of the considered opinion that present petition deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

01.09.2023
paramjit

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