

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 20074 of 2018(O&M)

Date of Decision: 27.07.2023

Krishna Devi

---Petitioner

versus

Union of India and others

---Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Jai Vir Yadav, Senior Advocate with
Mr. Aman Gautam, Advocate and
Mr. Gagandeep, Advocate
for the petitioner

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

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

Mr. Vijay Pal, Advocate
for respondent No. 5

JAGMOHAN BANSAL, J. (ORAL)

CM-15234-CWP-2018

1. Prayer in this application is for impleadment of Hemant Kumar son of Parshu Ram as respondent No.4.
2. Allowed as prayed for.
3. Hemant Kumar son of Parshu Ram is ordered to be

impleaded as respondent 4.

4. Amended Memo of Parties is taken on record. Registry is directed to tag the same at appropriate place.

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5. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 19.06.2018 (Annexure P-9) whereby her claim for allotment of LPG distributorship has been rejected.

6. The petitioner vide application dated 11.09.2017, pursuant to advertisement dated 13.08.2017, applied for LPG distributorship of respondent No.2. The petitioner was declared successful candidate in the draw of lots and asked to submit security along with requisite documents. The petitioner deposited security along with requisite document i.e. lease deed with owner of showroom. The size of the show room was less than required size, thus, petitioner vide communication dated 19.06.2018 was asked to provide alternative land by 26.06.2018. The petitioner realized that dimension of area disclosed in the lease deed is incorrect and it can be corrected by way of rectified lease deed. Accordingly, the petitioner vide rectified lease deed dated 12.06.2018 (Annexure P-8) got corrected land owner's share. The respondent rejected application of the petitioner on the ground that rectification has been executed after last date of submission of application, thus, petitioner is not entitled to allotment.

7. Mr. Yadav, Senior Advocate for the petitioner, inter alia contends that in the original lease deed there was some mistake which

was got corrected and for the said purpose rectified lease deed was prepared. The rectification relates back to the date of original execution of lease deed, thus, petitioner was entitled to allotment and he has wrongly been denied benefit of allotment.

To buttress his contention, he cited judgment of this Court in **Sonia Marya vs. Indian Oil Corporation Limited and others, CWP No. 20919 of 2018 decided on 19.08.2019** as well two Judge Bench judgment of Allahabad High Court in **Panch Dev Kumar vs. Indian Oil Corporation Limited and others Writ-C No. 15653 of 2018 decided on 09.05.2018**. Judgment dated 19.08.2019 passed by Single Bench of this Court stands upheld by a Division Bench of this Court.

8. Per contra, learned counsel for Hindustan Petroleum Corporation Limited submits that petitioner was directed to provide alternate land, however, he provided the same land with rectified lease deed which could not be accepted.

9. I have heard arguments of learned counsel for the parties and perused the record.

10. A Co-ordinate Bench of this Court in **Sonia Marya (Supra)** while dealing with distributorship of LPG has considered the identical issue and allowed the writ petition. The Court has noticed that rectified lease deed was submitted before passing the impugned order.

In the case in hand, rectified lease deed was submitted even before the last date granted to offer alternative land. The judgment passed by learned Single Judge of this Court stands affirmed

by Division Bench of this Court in LPA No. 1205 of 2021 vide judgment dated 17.12.2021. The Division Bench of Allahabad High Court in **Panch Dev Kumar (supra)** has also formed the same opinion. The Court has clearly held that rectification will relate back to date on which lease deed was executed.

The Corporation itself asked the petitioner to offer alternate land meaning thereby the petitioner was at liberty to provide any other land which fulfilled requirements of the brochure/advertisement. The petitioner instead of arranging any other land has got corrected the shortcoming in the the land which was originally submitted. The stand of the respondent-corporation seems to be pedantic whereas it was a contractual matter where intent and purport of both sides should be to execute contract and commence the commercial activity.

11. In view of the aforestated judgment of this Court, this Court is of the considered opinion that present petition deserves to be allowed and accordingly allowed. Impugned order dated 19.06.2018 (Annexure P-9) passed by respondent is hereby set aside.

(JAGMOHAN BANSAL)
JUDGE

27.07.2023

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Whether speaking/reasoned : Yes

Whether reportable : Yes/No