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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-25787-2018 (O&M)

Date of Decision:21.11.2023

SATISH KUMAR

..... Petitioner

Versus

INDIAN OIL CORPORATION LIMITED AND ANOTHER

..... 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)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of letter dated 15.06.2017 (Annexure P-13) and communication dated 03.09.2018 (Annexure P-21) whereby candidature of the petitioner for the allotment of petrol station has been cancelled.

2. The petitioner pursuant to an advertisement applied for the allotment of petrol pump. The petitioner was selected in the draw of lots. Letter of intent dated 29.08.2016 (Annexure P-18) came to be issued to the petitioner. Another unsuccessful candidate namely Praveen Kumar lodged a complaint against the petitioner alleging that petitioner has mis-declared particulars of the offered land. The respondent-Corporation conducted an enquiry and found that there is 1 marla land abutting

the road which falls between road and offered land of the petitioner. The petitioner purchased aforesaid 1 marla land and requested the respondent-Corporation to re-consider his case for allotment of petrol pump. The respondent vide communication dated 15.06.2017 rejected candidature of the petitioner on the ground that petitioner was not owner of the offered land at the time of application. The petitioner preferred CWP No.14305 of 2017 before this Court which came to be disposed of by directing the respondent to re-consider case of the petitioner. The respondent called the petitioner for personal hearing and on the basis of available record and submissions of the petitioner passed impugned order dated 03.09.2018 whereby candidature of the petitioner has been rejected.

3. Learned counsel for the petitioner submits that impugned order dated 03.09.2018 is reiteration of earlier communication dated 15.06.2017 whereby candidature of the petitioner was rejected. The petitioner is having sufficient land where petrol pump can be installed. The petitioner has purchased 1 marla land which was the bone of dispute. The aforesaid 1 marla land could be ignored and petitioner could be considered for allotment because aforesaid 1 marla land does not come in the way of the petitioner for the allotment of petrol pump.

4. Per contra, learned counsel for the respondents submits that petitioner was required to offer owned land. The petitioner did not disclose the material fact that there is 1 marla land in between road and his land which is not owned by him. The aforesaid 1 marla land is abutting the road and petrol pump could not be installed ignoring the said land. As per brochure, the land purchased subsequently cannot be considered for the allotment of petrol pump. It would be contrary to the

terms and conditions of the brochure. As per Clause 21, the petitioner was supposed to make correct statement whereas petitioner has concealed material facts. Subsequent purchase of 1 marla land confirms stand of the respondent.

5. I have heard the arguments of both sides and with the able assistance of learned counsel perused the record.

6. From the perusal of record, it comes out that respondent has rejected claim of the petitioner on the sole ground that 1 marla land bearing khewat No.274, khasra No.16//21/1/1/2 was not owned by the petitioner at the time of filing of application for allotment of petrol pump. The petitioner did not disclose this material fact in the application and respondent came to know about the said fact on the complaint of Praveen Kumar. On re-verification, it was found that there is 1 marla land in between land of petitioner and main road. The petitioner has admitted that Halka Patwari while preparing first report ignored the aforesaid 1 marla land. The relevant extracts of order dated 03.09.2018 passed by respondent read as:

“In compliance of the aforesaid order of the Corporation you appeared before the Chief General Manager (RS), DSO and Chief Manager (R\$), DSO on 04.07.2018 instead of 10.07.2018, whereon during the course of hearing you submitted that One Marla of land bearing Khewat No. 274, Khasra No. 16//21/1/1/2 (0-1M) owned by Shri Mahendra, Shri Rajendra and Shri Raghubir abutting the road was leased by the said landowners in your favour for 30 years vide lease deed duly registered vide No. 5624 dated 28.09.2016. You also submitted that 1 Marla of aforesaid land was left by Patwari by mistake during

the preparation of Tatima for the land offered with the application.

You are aware that you submitted your application dated 24.11.2014 for the selection for KSK dealership at location village Daya on Mangli-Daya Road, District Hisar wherein you had offered the land measuring 2K 10M bearing Khasra No. 15//-25/2 (1-3), 16//21/1/1 (1-7) village Daya, Tehsil & Distt. Hissar and in support thereof had attached the lease deed dated 20.11.2014 executed in your favour by Shri Mahendra, Shri Rajendra and Shri Raghubir duly registered in the office of Sub-Registrar, Hisar vide No. 9422 dated 20.11.2014.

A complaint dated 08.09.2016 was received from one Shri Praveen Kumar wherein it was alleged that the land offered by you vide your aforementioned application is not abutting the road and there is land of other people in between the land offered by you and the road. The matter was got investigated by the Corporation wherein it has been found that the land which is lying in between the land offered by you with the application and the road is comprising Khasra No. 16// 21/1/1/2 (0-1) and belongs to Shri Shri Mahendra, Shri Rajendra and Shri Raghubir which has been taken by you on lease vide lease deed dated 28.09.2016 duly registered in the office of Sub-Registrar, Hissar vide No. 5,624 dated 28.09.2016 for a period of 30 years i.e. much after the date of application. This fact has also been admitted by your during the course of personal nearing on 04.07.2018. In this regard your attention is drawn to Clause 21.0 of Brochure for Selection of Dealers then in vogue and certificate given in application form which says.

Clause 21 False Information

" If any statement made in the application or in the

document enclosed therewith or subsequently submitted in pursuance of the application by the candidate at any stage is found to have been suppressed/misrepresented/incorrect or false, then the application is liable to be rejected without assigning any reason and in case the applicant has been appointed as a dealer, the dealership is liable to be terminated. In such cases the candidate/dealer shall have no claim whatsoever against respective Oil Company."

Certificate in the application

" I Satish Kumar S/O Shri mange Ram hereby confirm that the information given above is true and correct. Any wrong information/misrepresentation/suppression of facts will make me ineligible for this RO Dealership. That if any information/declaration given by me in my application or in any document submitted by in support of application for the award of the RO dealership shall be found to be untrue or incorrect or false, IOCL would be within its right to withdraw the letter of intent/terminated the dealership (if already appointed) and that I would have no claim, whatsoever, against the Corporation for such withdrawal/termination.

In view of above, since (0-1) of land comprising Khasra No. Khasra. No. 16// 21/1/3/2 (0-1) belonging to Shri Shri Mahendra. Shri Raiendra and Shri Raghubir is lying in between the land offered by you and the road at the time of application therefore, you have suppressed the information in your application as such you were ineligible for the instant RO dealership. Your candidature for the selection for the KSK dealership at location village Daya on Mangli-Daya Road, District Jind hereby rejected."

7. The respondent is bound by terms and conditions of the

brochure. It is settled proposition of law that neither party can act contrary to terms and conditions of the brochure. Clause 21 of the brochure specifically provides that if any statement made in the application or document enclosed therewith or subsequently submitted pursuant to application, is found incorrect, the candidature of the applicant shall be liable to be rejected.

8. In the case in hand, admittedly, there was 1 marla land in between land offered by petitioner and public road. The petitioner because of reasons best known to him could not disclose existence of aforesaid 1 marla land. The respondent came to know about existence of aforesaid land on the complaint of Praveen Kumar. As per respondent, act of petitioner amounts to concealment of material facts. The respondent intended to allot petrol pump on road and petitioner was not owner of 1 marla land abutting the road. As per petitioner, petrol pump could be installed ignoring aforesaid land whereas as per respondent, the aforesaid piece of land falls in between road and land owned by petitioner, thus, petrol pump could not be installed and petitioner had intentionally concealed existence of aforesaid land. The respondent is bound by terms and conditions of the brochure. This Court cannot ask the respondent to allot petrol pump to petitioner when there are disputed question of facts and there is no allegation of manifest arbitrariness and mala fide intention on the part of respondent.

9. In the wake of above discussion and findings, this Court is of the considered opinion that petition sans merit and deserves to be dismissed.

10. The dismissal of the present petition would not preclude the

petitioner from applying for the future allotment and it would not be considered as stigma/ impediment in the future applications.

11. Pending misc. application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

21.11.2023
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Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>