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

**CWP-456-2017
Date of Decision: 31.01.2023**

Bhinder Singh ..... Petitioner

Versus

Union of India and others ..... Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present: Mr. Amit Kashyap, Advocate,
for the petitioner.

Mr. Ankur Sharma, Senior Panel Counsel,
for respondent No.1-UOI.

Mr. Ashish Kapoor, Advocate
for respondent Nos.2 & 3.

Mr. G.S. Attariwala, Senior Advocate assisted by
Mr. Saurabh Singla, Advocate,
for respondent No.4.

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JASGURPREET SINGH PURI, J. (ORAL)

The present writ petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing of the allotment of Kisan Seva Kendra Retail Outlet in favour of respondent No.4 vide Result dated 05.08.2016 (Annexure P-13) by putting the present respondent No.4 as single eligible candidate and overlooked the application submitted by the present petitioner without giving any reason.

The brief facts of the case are that the respondent-Corporation which is the Indian Oil Corporation had issued an advertisement vide

Annexure P-1 dated 21.10.2014 inviting applications for allotment of retail outlet for petrol pump which was rural retail outlet for the State of Haryana. The last date for filling up the application was 25.11.2014. The petitioner filed an application vide Annexure R-2/1 well in time i.e. on 22.11.2014. However, there was a condition precedent for the purpose of applying for the aforesaid retail outlet which has been mentioned so in Clause 4(v) which provided that for the regular retail outlets, the fund requirement for eligibility will be Rs.25 lacs and in respect of rural retail outlets the fund requirement for eligibility will be Rs.12 lacs. The subject matter of the present case pertains to rural retail outlet, and therefore, one of the eligibility condition *sine qua non* for the purpose of even applying was that the applicant should have funds of Rs.12 lacs regarding which details have been given in the aforesaid Clause 4(v), which is reproduced as under:-

> "**(v) Finance**:
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> For Regular ROs the fund requirement for eligibility will be Rs.25 lakhs and in respect of Rural ROs the fund requirement for eligibility will be Rs.12 lakhs. The funds can be in the following forms:-
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> - **Funds in savings accounts, Deposits with Bank/Registered Companies/Postal Schemes :** Copy of Pass book/account statement/deposit receipts to be provided.
> - **National Savings Certificates, etc. :** Redemption value - Valuation certificates along with copy of NSC to be provided.
> - **Bonds : Redemption value :** Valuation Certificates along with copy of bonds to be provided.
> - **Shares of listed Companies in Demat form :** Valuation certificates along with copy of Demat

statement to be provided.

- **Mutual Funds :** Valuation certificates along with copy of mutual fund certificates of Demat statements to be provided."

However, when the application of the petitioner was verified by the respondent-Corporation, it was found that he did not fulfill the aforesaid eligibility qualification of having funds of Rs.12 lacs, and therefore, he was not put in the draw of lots. Consequently, the only person, who was otherwise eligible i.e. respondent No.4 was allotted the retail outlet and there were only two applicants pertaining to the present outlet.

Learned counsel for the petitioner submitted that the action of the respondent-Corporation was illegal in view of the fact that the petitioner had fulfilled the eligibility qualification including the ownership of land and the petitioner could not have been non-suited only on the ground that he did not have the funds of the aforesaid Rs.12 lacs as prescribed in the aforesaid Clause, since the same could have been arranged thereafter.

On the other hand, Mr. Ashish Kapoor, learned counsel appearing on behalf of respondent Nos.2 & 3-Corporation while referring to its reply submitted that the petitioner was not even eligible for being considered since he was not fulfilling the aforesaid Clause 4(v) and he referred to the Application Form of the petitioner which is attached along with the reply as Annexure R-2/1 wherein it has been so specifically stated at Serial No.13 that he had an amount of Rs.2 lacs only. He further submitted that even vide Annexure R-2/2 which is a statement of the State Bank of Patiala dated 11.11.2014, the petitioner was rather running a deficit amount of about Rs.18 lacs, and therefore, the mandatory provision of having the funds of Rs.12 lacs was not fulfilled by the petitioner and that was the reason as to why he was not considered for the purpose of allotment. He further submitted that respondent No.4 was fully eligible and was the remaining sole contestant and therefore, he was allotted the dealership way-back in the year 2016, and thereafter, he has been running the petrol pump consistently and it is operational. He has, therefore, prayed for dismissal of the present petition.

Mr. G.S. Attariwala, learned Senior Counsel assisted by Mr. Saurabh Singla, Advocate, appearing for respondent No.4 has also submitted that the petitioner did not fulfill the basic eligibility qualification as aforesaid and was, therefore, not entitled for being considered for allotment of Kisan Seva Kendra Retail Outlet. He also raised an objection that there was an alternate remedy available to the petitioner vide Clause 17 of the Brochure/Guidelines whereby a complaint could have been filed by the petitioner on payment of Rs.1,000/- as costs which was inbuilt grievance redressal mechanism, and therefore, the present writ petition is also not maintainable. He has further submitted that even otherwise also for about 7 years, respondent No.4 has been running the petrol pump at the relevant site, and therefore, the present petition is liable to be dismissed.

I have heard the learned counsel for the parties.

So far as the objection raised by the learned Senior Counsel with regard to the availability of the alternative remedy pertaining to the inbuilt grievance redressal mechanism is concerned, this Court is of the view that since the present writ petition is of the year 2017, which is more than five years that the petition is pending, the petitioner cannot be non-suited only on the ground of the aforesaid alternate remedy considering the peculiar facts and circumstances and long pendency of the petition and without observing as to whether at the initial stages the preliminary objections were sustainable or not.

However, considering the case of the petitioner on merits, the sole issue which arises in the present petition is as to whether the petitioner was eligible as per Clause 4(v) or not. A perusal of the application of the petitioner (Annexure R-2/1) as well as the Bank Statement (Annexure R-2/2) would show that the petitioner was not having the adequate funds of Rs.12 lacs which he himself had stated in the Application Form that he is having only Rs.2 lacs and furthermore, his Bank Statement as on 11.11.2014 was deficit of Rs.18 lacs. Therefore, *ex facie,* the petitioner was not fulfilling the eligibility qualifications as contained in the Brochure.

In view of the aforesaid position, the present petition is devoid of merits and consequently, the same is hereby dismissed.

However, there will be no order as to costs.

31.01.2023 **(JASGURPREET SINGH PURI)**
Bhumika **JUDGE**

1. Whether speaking/reasoned: Yes/No
2. Whether reportable: Yes/No