

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

**CWP No.19591 of 2023
Date of Decision:18.10.2023**

Ravinder Kaushik

....Petitioner

VS.

Union of India and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Shivanshu Bhardwaj, Advocate
for the petitioner

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

Mr. Raman Sharma, Addl. A.G.Haryana

JAGMOHAN BANSAL, J. (ORAL)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of notice dated 02.03.2023 (Annexure P-10) whereby respondent No. 2 has cancelled location of Sr. No. 91 of the advertisement dated 25.11.2018 (Annexure P-1).

2. The respondents on 25.11.2018 advertised various locations which included location at Sr. No. 91 i.e. Village Badli Majra, Jhajjar Badli Road LHS, District Jhajjar. The petitioner applied for the allotment of retail outlet. The respondents conducted draw of lots and petitioner was declared successful in the draw of lots. The respondents during the course of field

verification found that land of the petitioner is situated within the jurisdiction of village Mohammadpur Majra. The respondents rejected candidature of the petitioner on the ground that land offered by petitioner does not fall within the site/land advertised. The petitioner preferred CWP No. 24422 of 2019 before this Court. This Court vide order dated 08.02.2023 directed the Deputy Commissioner, Jhajjar to find out as to whether village Mohammadpur Majra is also known as village Badli Majra or these are two different villages and what is the extent of location of these two villages. The Tehsildar vide report dated 06.04.2023 disclosed that village Mohammadpur Majra and Badli are two different villages. Mohammadpur Majra is also known as Badli Majra in local language as inhabitation (abadi) of these two villages is intermixed. Villages Mohammadpur Majra and Badli are adjoining and situated on Jhajjar Badli Road. The respondents, prior to disposal of aforesaid writ petition, on the basis of report received from revenue officers, cancelled advertised site and this Court disposed of the writ petition as withdrawn with liberty to file a fresh, if so advised for challenging the order of cancellation.

3. Learned counsel for the petitioner inter alia contends that respondents during the pendency of CWP No. 24422 of 2019 has cancelled the advertised site which is contrary to guidelines issued by the Department of Justice as well as judgment passed by Patna High Court in “**The King Vs. Parmanand and others**” decided on **05.11.1948** and judgment of Andhra Pradesh High Court in “**Dr. Jones Shield vs. N. Ramesam and others**” decided on **28.02.1955**. The act of respondents amounts to over-reaching the court proceedings.

4. Per contra, learned counsel for the respondents submits that as per revenue record, there is no village known as Badli Majra and there is a village namely Mohammadpur Majra. The advertisement was confusing and there were all possibilities that many people did not participate on account of absence of actual name of the village i.e. Mohammadpur Majra. The respondents have acted in a fair and reasonable manner and there is no malice on the part of respondents and action was taken just to avoid confusion and extend opportunity to maximum candidates.

5. I have heard counsel for the parties and perused the record.

6. A Co-ordinate Bench of this Court in **CWP No.12149 of 2020, titled as “Atma Ram vs. Indian Oil Corporation Limited and others”** has adverted with the similar issue and held that corporation is empowered to cancel the site by invoking Clause (E) of the brochure. The relevant extracts of the judgment read as:

“The only issue involved in the present case is with regard to the objection taken by the respondents- Corporation that in the advertisement they had mentioned the name of Village as 'Jhumpa' which later on they found that such Jhumpa Village is not in existence as per the report of the Patwari and other information received by them. As per the Clause (E) of the Brochure, which has been reproduced above, it is the duty of the respondents- corporation to satisfy themselves with regard to the fact that there is no ambiguity or confusion with regard to the place and the land where they want to invest money so that retail outlet can be opened. Furthermore, vide Annexure P-19, they have not only cancelled the advertisement but they have also stated that they will readvertise with the new location. The plea

raised by the learned counsel for the respondents Corporation that it was the duty of the respondents-Corporation to have ensured that there is no confusion or ambiguity does carry weight. The respondents-Corporation is a public sector undertaking and they have to proceed with the allotment of retail outlet in a very diligent and conscious manner and in case they thought it fit and proper to invoke Clause (E) and to have cancelled the allotment site, on the ground that there is an ambiguity or confusion particularly on the basis of the report of the Patwari that the Village Jhumpa does not exist, it is certainly within the parameters of law.

So far as the argument raised by the learned counsel for the petitioner that other petroleum companies i.e. Bharat Petroleum Company has granted retail outlet on the basis of mentioning of Village Jhumpa is not sustainable in view of the fact that each and every company is an independent company and if at all any error has been committed by any other company even for the sake of arguments, then such an error cannot be permitted to perpetuate. Otherwise also it lies within the domain of respondents-Corporation to satisfy itself with regard to the fact that the terms and conditions of the guidelines are satisfied in a proper manner.

Apart from the above, the entire process was still at the processing stage and mere fact that the petitioner was declared successful in the draw of lots would not mean that any right has been vested in the petitioner, since there was no concluded contract between the parties because there was no allotment made to anybody. Therefore, this Court is of the view that there is no illegality in the decision which was made by the respondents-Corporation in its wisdom and in

accordance with the guidelines and the practical difficulties faced by them.

In view of the above, finding no merit in the present petition, the same is hereby dismissed.”

7. In the case in hand, there was clause (xiv) in the brochure which empowered the respondent-corporation to cancel the advertised site. There seems no malice on the part of respondents. The petitioner was declared successful in the draw of lots which did not create any vested or absolute right in favour of the petitioner. The site offered by petitioner was not found suitable and in the compelling circumstances, the respondents acting in a bona fide manner have cancelled the site. The judgment in **Atma Ram (Supra)** is squarely applicable to the case in hand. The action of the respondents cannot be called as discriminatory or violative of fundamental rights of the petitioner.

8. In the wake of above discussion and findings, this court is of the considered opinion that the present petition deserves to be dismissed and accordingly dismissed.

(JAGMOHAN BANSAL)
JUDGE

18.10.2023
paramjit

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