

CWP-28335-2019 (O&M)
Date of decision 18.01.2023

PHULWINDER SINGH

...Petitioner

Verses

BHARAT PETROLEUM CORPORATION LTD.(BPCL) AND
OTHERS

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

Present:- Mr. Raman B. Garg, Advocate
for the petitioner.Mr. Raman Sharma, Advocate
for the respondent.

JASGURPREET SINGH PURI, J (Oral):

The present writ petition has been filed under Article 226/227 of Constitution of India seeking writ in the nature of certiorari quashing of impugned letter 09.07.2019 (Annexure P-29) which has been issued by respondent-Bharat Petroleum Corporation Ltd.

The brief facts of the present case are that the Bharat Petroleum Corporation Ltd. along with the other Public Sector undertakings issued an advertisement jointly for the purpose of allotment of LPG Distributorship. One of the proposed sites for the aforesaid was Sangrur and the same was also reserved under the category of OBC. An advertisement was issued on 26.10.2013 but the same has not been appended with the present writ petition but has not been disputed by both the learned counsel for the parties. In the advertisement, the last date was

25.11.2013 for the purpose of applying. Thereafter the process started and on 29.11.2018, draw of lots was conducted in which the petitioner became successful. Thereafter, on the very next day i.e. on 30.11.2018 (Annexure P-5) a letter was issued by the Corporation to the present petitioner in this regard that in the draw of lots he has become successful. During the course of arguments the counsel for the petitioner has apprised the Court that there is a typographical mistake in Annexure P-5 wherein the second para is not typed wherein it has been stated that the LPG Distributorship draw of lots qua Sangrur-2 District Sangrur has been in favour of the petitioner. This factual position has not been disputed by the counsel for the respondent and therefore, there is no dispute with regard to the same. After the aforesaid draw of lots, the process of further completion of documents, scrutiny of the same and physical verification commenced. The said draw of lots was in the nature of a proposal from the Corporation for allotment of the LPG Distributorship which was subject to the fulfillment of all the other eligibility conditions as well as the physical verification. Thereafter vide Annexure P-11 dated 28.12.2018, the respondent-Corporation issued a letter to the petitioner with regard to Field Verification of Credentials of the location of Sangrur-2, District Sangrur and whereby it was stated that he was advised to submit the documents which he has not submitted and which included NOC (as per Appendix-4) with regard to the co-owner of the land and regarding the same names of the co-owners etc. have also been given in the letter. Apart from the above, two more documents were also requisitioned by the Corporation for the fulfillment of the requisite conditions of eligibility. However, the petitioner who is stated to have got the land for the purpose of LPG Distributorship on lease from one

Jagwinder Singh @ Jaswinder Singh had died on 03.04.2017 which was much before the even draw of lots. There were 3 LR's of the aforesaid Jagwinder Singh who were one Gurmeet Kaur (his widow) and two minor sons. The Corporation did not raise any objection with regard to the right of LR's to continue with the process but in the meantime two of the persons who were otherwise the co-sharers of the land which was sought to be given for LPG Distributorship on lease had also expired. These two persons were Bant Singh who died on 15.02.2018 and Harchet Singh who died on 12.12.2018. They were also succeeded by their respective LR's. The petitioner did not give the consent affidavit/certificate from the co-owners and the Corporation kept on waiting for the same in pursuance of the aforesaid letter dated 28.12.2018 (Annexure P-11).

In addition to the aforesaid letter dated 28.12.2018 (Annexure P-11) by which the Corporation had sought the NOC of the consent Certificates from all the co-owners, they also issued a separate letter by way of registered post vide Annexure P-12 of even date wherein they also sought clarification by issuing a letter to the petitioner that the land which has been offered by him which he is stated to have got by way of lease from Jagwinder Singh has already been given on lease by the same Jagwinder Singh to some other person namely Rupinder Singh and two lease deeds have been executed simultaneously with regard to the same land. Therefore, the petitioner should submit his comments within a period of 7 days. To this, the petitioner filed a reply vide Annexure P-13 in which he stated that the owner of land namely Jaswinder Singh @ Jagwinder Singh is having big chunk of land at the same place and therefore, he will get the required documents from the owner.

the petitioner was required to give consent certificate from all the co-owners of the land and secondly the same land has been leased out by the lessor to somebody else i.e. Rupinder Singh and for that explanation was sought. Thereafter the petitioner gave the consent certificates of 5 out of the 11 co-owners and, therefore, consent of all the co-owners were not given by the petitioner. Consequently, the Corporation vide impugned Annexure P-29 rejected the candidature of the petitioner and directed that the amount of Rs.25,000/- deposited with the Corporation stands forfeited. The said candidature was rejected on two grounds. Firstly that the land which is stated so in the lease deed was an unpartitioned land and NOCs from all the co-owners was required, but NOC of all the co-owners had not been given by the petitioner and secondly the land which has been submitted by the petitioner in the application has been leased to some another person and because of these reasons, the candidature of the petitioner was rejected vide impugned order Annexure P-29.

Learned counsel for the petitioner has submitted that it is not in dispute that the petitioner had got the land by way of a lease from one Jagwinder Singh @ Jaswinder Singh, who had died on 03.04.2017 and it is also not in dispute that he was able to give no objection of only 5 out of 11 co-owners till the time the impugned rejection order has been passed. So far as the second issue is concerned, he has submitted that the allegations made by the Corporation that the land which he had offered was not only leased to the petitioner by Jagwinder Singh @ Jaswinder Singh but it was also leased to another person, namely, Rupinder Singh is incorrect because Jagwinder Singh was the owner of a large chunk of land and he had leased some other land to Rupinder Singh and some other piece of land to the

petitioner and therefore, on this ground he has been wrongly rejected. However, with regard to the remaining co-owners whose NOC could not be submitted till the time of the impugned order has now been obtained and has been forwarded to the Corporation and the same are attached as Annexures P-22 to P-27 but these NOCs were obtained after the impugned rejection order.

On the other hand, learned counsel appearing for the respondent-Corporation has submitted that the action of the respondent-Corporation was perfectly in accordance with law and the guidelines of the Brochure and since the petitioner was found to be ineligible for the allotment of LPG Distributorship, the impugned order Annexure P-29 was rightly passed by the competent Authority. He referred to a Brochure which contains the guidelines which also have not been appended with the petition but has been supplied to this Court during the course of arguments by referring to Clause 6.1 (VIII) wherein it has been so stated that in case the land is jointly owned by the applicant/member of "Family Unit" with any other person and share of the land in the name of applicant/member of the "Family Unit" meets the requirement of land including the dimensions required, then that land for godwon/showroom is also qualifying for eligibility as own land subject to submission of ***No Objection Certificate in the form of a Notarized affidavit from other owners***. He further referred to the general instructions pertaining to the candidature for applying for LPG Distributorship which is at page No.38 of the aforesaid Brochure, where it has been so specifically provided that the date of documents have to be on or before the last date of submission of application as mentioned in the advertisement, if any and further in case

with any other person or jointly leased in the name of the applicant/member of "Family Unit" and any other person and share of such land in the name of the applicant/member of "Family Unit" meets the requirement of land for godown when an **NOC in the form of an Affidavit from the joint owners/joint lessee** is to be provided as per Appendix-4. It is submitted that it was mandatory condition that the petitioner should have submitted the NOC from all the co-owners in the form of an affidavit and he should have been in possession of the same even at the time of filing up of the application form as per the general instructions, but admittedly the petitioner did not have the NOC at the time of the application but after the draw of lots he submitted some of the NOCs from some of the co-owners but admittedly he had not given the NOCs from all the co-owners till the time the Corporation has rejected the claim of the petitioner and therefore, the petitioner was not eligible for the allotment of the LPG Distributorship. He further submitted that apart from the above, the total land of the aforesaid Jagwinder Singh @ Jaswinder Singh was unpartitioned land and so far as the second issue with regard to the land being leased out by aforesaid lessor to two persons is concerned, Mr. Raman Sharma, learned counsel for the respondent-Corporation has referred to the lease deed pertaining to the petitioner (Annexure P-1) and submitted that identical lease deed was executed by the same person i.e. Jagwinder Singh @ Jaswinder Singh to the second person namely, Rupinder Singh and he has also supplied a copy of the lease deed to the Court in this regard. A copy of the same is hereby taken on record as Mark 'X'. He submitted that when an explanation was called from the petitioner in this regard, he only submitted that lessor Jagwinder Singh @ Jaswinder Singh is holding a large chunk of land but the reply was totally evasive and

did not disclose anything with regard to the comparison of two pieces of land. He further

submitted that even the widow of the aforesaid Jagwinder Singh @ Jaswinder Singh had executed an affidavit wherein she had admitted that two lease deeds were executed by Jagwinder Singh @ Jaswinder Singh and both the lands are different but said affidavit has been executed by her vide Annexure P-28 on 19.08.2019 which was after the rejection by way of the impugned order and therefore, it had got no significance. The learned counsel for the respondent-Corporation further submitted that apart from the above, the respondent is a public sector undertaking and it has to see not only that all the mandatory conditions for eligibility are being fulfilled by the applicant but has also to safeguard the interest of the State being a public sector undertaking and on physical verification it was found that the aforesaid two lands are the same and therefore, there was no occasion to have continued with the process pertaining to the petitioner and the respondent-corporation has rightly rejected the candidature of the petitioner.

I have heard the learned counsel for the parties.

The impugned order dated 09.07.2019 Annexure P-29 whereby the candidature of the petitioner was rejected. It is a case where the petitioner is seeking writ for the purpose of quashing of the aforesaid order and also seeking allotment of the LPG Distributorship to him. Admittedly, it is a case where in the draw of lots the petitioner was successful and thereafter the process with regard to scrutiny of documents and physical verification was required to be carried on by the Corporation.

Therefore it is not a case of a concluded contract between the parties

been rejected on two grounds. Firstly the NOCs from all the co-owners were not submitted by the petitioner and secondly the land which was offered by the petitioner which he got by way of a lease from Jagwinder Singh @ Jaswinder Singh was the same land which the aforesaid lessor had leased to some other person namely, Rupinder Singh. A perusal of the Brochure which has been shown to the Court during the course of arguments would show that at the time of submission of the application form all the documents were required to be in the possession of the applicant. But it is not in dispute in the present case that the NOCs were neither in the possession of the petitioner nor it has been so pleaded by the learned counsel for the petitioner that they were in his possession. However, some of the NOCs were given by the petitioner after he was declared as successful which was 5 out of the total 11 co-sharers. Admittedly the remaining of the NOCs have been given after the impugned rejection order and therefore it is not in dispute that the NOCs of all the co-owners were not supplied to the respondent-Corporation till the time when the impugned order was passed. Therefore, on the face of it, it appears that the petitioner was not eligible for being allotted the LPG Distributorship. So far as the second issue with regard to the fact that the land, the petitioner had got on lease from a lessor namely Jagwinder Singh @ Jaswinder Singh is the same land which the aforesaid lessor had given to another person namely, Rupinder Singh is concerned, the same although can be compared on the basis of lease deeds but it is purely a disputed question of fact since the land of Jagwinder Singh was not a partitioned land.

Apart from the above, once the respondent-Corporation which

then it has to apply its mind and its wisdom to see that all the eligibility conditions are fulfilled and there should not be any confusion and especially with regard to the identification of the land and once confusion arises with regard to the land itself then it is well within the wisdom of the public sector undertaking to refrain itself from further processing the application by rejecting the same, particularly in view of the fact that it was not a stage of concluded contract but it was at a stage where a proposal was made which was still to be processed. Therefore the petitioner did not have a vested right in him for seeking the allotment of LPG Distributorship.

In view of the aforesaid totality and circumstances of the present case, this Court does not deem it fit and proper to interfere in exercise of its inherent powers under Article 226/227 of Constitution of India. Consequently, finding no merit in the present petition, the same is hereby dismissed.

All interim orders in the present petition are hereby vacated.

All pending applications stands disposed of.

(JASGURPREET SINGH PURI)
JUDGE

18.01.2023
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Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No