

In the High Court of Punjab and Haryana at Chandigarh

Date of Decision: 22.08.2023

CWP No.29034 of 2019(O&M)

Kamaldeep Singh

---Petitioner

versus

Bharat Petroleum Corporation Limited and others

---Respondents

CWP No.26517 of 2022

Satinder Pal Singh

---Petitioner

versus

Bharat Petroleum Corporation Limited and others

---Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Rupinder Khosla, Senior Advocate with
 Mr. Aman Sharma, Advocate
 for the petitioner in CWP- 29034 of 2019
 Mr. P.S.Jammu, Advocate
 for the petitioner in CWP-26517 of 2022
 for the applicant in CM No. 12790 of 2022
 Mr. Raman Sharma, Advocate
 for Bharat Petroleum Corporation Limited
 in both the cases
 Mr. Deepanjay Sharma, DAG, Punjab
 Mr. Khushdeep Mann, Advocate
 for respondent No. 5 in CWP-26517 fo 2022

JAGMOHAN BANSAL, J. (ORAL)

CM No. 12970-CWP-2022 in CWP-29034 of 2019

Prayer in this application is for impleadment of applicant-Satinder Pal Singh as respondent No.5.

Allowed as prayed for.

Applicant-Satinder Pal Singh is ordered to be impleaded as respondent No. 5.

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

CWP No. 29034 of 2019 and
CWP No. 26517 of 2022

1. By this common order, CWP No. 29034 of 2019 and CWP No. 26517 of 2022 are disposed of as issue involved is common and both are arising from same cause of action. For the sake of brevity and with the consent of parties, facts are borrowed from CWP No. 29034 of 2019.

2. The brief facts which are necessary for adjudication of the present case are that pursuant to an advertisement of respondent-Bharat Petroleum Corporation Limited (in short “respondent-Corporation”), the petitioner online applied for Rural Retail Outlet Dealership vide application dated 24.12.2018 under OBC category. The petitioner, in compliance to respondent's letter dated 04.07.2019, submitted different documents including OBC certificate dated 09.07.2019. The respondent-corporation, vide communication dated 23.09.2019 rejected application of the petitioner on the ground that category certificate is of a date which is later than the date of application. Rejection of candidature led to filing of present writ petition.

3. Mr. Khosla, learned Senior counsel submits that as per guidelines of the respondent-corporation, OBC certificate is a rectifiable deficiency and it can be rectified at a later stage. The respondent-corporation did not ask the petitioner to rectify the defect, thus, rejection of candidature was contrary to intent and purport of the scheme as well as brochure. The petitioner has never received letters

dated 06.08.2021 and 29.10.2021. These letters were sent during the pendency of present petition and respondent could point out during the course of hearing.

4. Mr. Raman Sharma, counsel for respondent-corporation concedes that vide Minutes of Meeting dated 24.06.2020, all the oil companies have decided that caste certificate may be of a later date than the date of application and it would be treated as a rectifiable mistake. In consonance with said meeting, the petitioner through e-mail dated 06.08.2021 was directed to submit documents alongwith OBC certificate, however, petitioner did not come forward and respondent-corporation, at this stage, cannot consider his claim. The petitioner has not submitted other documents which were called for vide letters dated 06.08.2021 & 29.10.2021.

5. Mr. P.S.Jammu, appearing for the petitioner in CWP No. 26517 of 2022 and respondent No.5 in CWP No.29034 of 2019 submits that documents submitted by petitioner (Kamaldeep Singh) are forged documents, thus, he is not entitled to allotment of retail outlet.

6. On being confronted with the aforesaid fact, Mr. Raman Sharma submits that respondent-corporation would examine authenticity of the documents submitted by petitioner and act thereupon accordingly.

7. I have heard arguments of both sides and perused the record.

8. Concededly, the petitioner was not having OBC certificate in the prescribed proforma at the time of submission of application, however, he obtained OBC certificate on 09.07.2019

which was submitted to the respondent-corporation in compliance to their letter dated 04.07.2019. The oil companies in its meeting dated 24.06.2020 has clarified that caste certificate is a rectifiable mistake and certificate may be of a later date than the date of application, thus, objection of the respondent-corporation that OBC certificate dated 09.07.2019 is post date of application i.e. 24.12.2018 cannot be countenanced. The respondent-corporation has pleaded that petitioner vide communications dated 06.08.2021 and 29.10.2021 was asked to furnish caste certificate is irrelevant since the petitioner had already submitted caste certificate dated 09.07.2019. It was inappropriate on the part of respondent-corporation to ask the petitioner vide communications dated 06.08.2021 and 29.10.2021 to submit caste certificate when caste certificate was already on record though it was issued post date of application. It seems to be highly pragmatic on the part of respondent-corporation to ask the petitioner to submit caste certificate in view of minutes of meeting of the oil companies. It would be travesty of justice if candidature of an applicant is accepted who has filed OBC certificate post meeting dated 24.06.2020 of the Oil Companies and candidature of an applicant is rejected who had already filed certificate though post date of application. The contention of respondent-corporation cannot be countenanced and accordingly deserves to be rejected.

9. With respect to contention of the respondent-corporation that petitioner has not submitted other documents as required vide letters dated 06.08.2021 and 29.10.2021, this Court does not find it appropriate to examine dispute qua delivery/communication of these documents. The respondent-corporation till date has not allotted

dealership to anyone and as confirmed by Mr. Sharma, it may be allotted to contesting parties, it is hereby clarified that petitioner shall submit all the required documents within two weeks from today and respondent-corporation would be at liberty to scrutinize genuineness of those document and pass an order qua allotment. The respondent-corporation before passing any order with respect to allotment shall consider objections of Satinder Pal Singh (Petitioner in CWP- 26517 of 2022). Satinder Pal Singh is at liberty to move representation alongwith documents in support of his contention.

10. Petitions stand disposed of.

11. Pending misc. application, if any, shall stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

22.08.2023
paramjit

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