

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

203

CWP-33845-2019

Date of Decision: 11.12.2023

Jagdish Kaur

...Petitioner

Versus

Union of India and Another

...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Sukhvir Singh Sahu, Advocate for the petitioner
Mr. Pardeep Rajput, Senior Panel Counsel,
for Union of India-respondent No.1
Mr. Ashish Kapoor, Advocate for the respondent No.2

JAGMOHAN BANSAL, J. (Oral)

1. On 05.02.2020, the following order was passed:-

“It is submitted that the last date for submission of applications for allotment of retail outlet dealership was 21.11.2014. The petitioner submitted an application on 18.11.2014 alongwith requisite FDRs etc. She had approached the bank for preparation of the FDR and had expected the same to be ready on 13.11.2014. To complete all the necessary papers to be submitted alongwith the application, an affidavit in terms of the brochure was also prepared on 13.11.2014. The FDR was, however, not ready and was delivered to her on 14.11.2014. Accordingly, another affidavit dated 17.11.2014 was prepared to be appended with her application, but due to an inadvertent mistake it is affidavit dated 13.11.2014, which was attached with the application. The respondent – Corporation rejected the petitioner's candidature merely on the ground that on the date of execution of affidavit

dated 13.11.2014, the FDRs were not available with the petitioner. Learned counsel further submits that the entire matter was duly explained to the respondent – Corporation and a representation was submitted as well but the petitioner's representation has been rejected vide order dated 31.07.2019 (Annexure P13).

Notice of motion.

Mr. Ashish Kapoor, Advocate accepts notice on behalf of the respondents and prays for time to file reply.

At request, adjourned to 16.04.2020.

Reply be filed well before the adjourned date.

Learned counsel of the petitioner submits that the dealership in question has not been allotted to any other person as on date. If that be so, allotment thereof be kept in abeyance till the next date of hearing.”

2. Learned counsel for the respondent No.2- Indian Oil Corporation Limited (for short ‘**corporation**’) submits that petitioner has furnished affidavit dated 13.11.2014 wherein she had disclosed her financial status. The affidavit was of 13.11.2014 whereas the petitioner got credit balance of ₹25 Lacs on 14.11.2014. The petitioner was supposed to have bank balance of Rs.25 Lacs on the date of affidavit as well as cut-off date for filing application. The petitioner was admittedly having bank balance on the cut-off date, however, she was not having credit balance on the date of affidavit. The corporation is bound by terms and conditions of the brochure and cannot act contrary to the conditions.

3. Learned counsel for the petitioner submits that there were two candidates and as per his information, the second candidate has already sold his land, thus, he is no more eligible for the allotment.

4. Admittedly, the affidavit is dated 13.11.2014 and the petitioner was not having bank balance of ₹25 Lacs on the said date. As per terms and conditions of the brochure, the petitioner was supposed to have credit balance of ₹25 Lacs on the date of affidavit. The petitioner filed her application on 18.11.2014 and cut-off date was 21.11.2014. In view of terms and conditions of the brochure, the application of the petitioner is liable to be dismissed, however, considering the fact that there is no other eligible candidate and *prima facie* it appears that there is mistake on the part of petitioner especially when the application was filed on 18.11.2014 and not on 13.11.2014 i.e. date of affidavit, the corporation is requested to re-look into the matter. The Court is sanguine of the fact that corporation, before taking decision, would keep in mind that inviting of fresh applications would consume a lot of time and terms & conditions of the brochure are though binding upon the parties still these are not statutory in nature and in view of nature of lapse on the part of the petitioner, the matter may be re-considered.

Disposed of in above terms.

(JAGMOHAN BANSAL)
JUDGE

11.12.2023
Mohit Kumar

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>