

CWP No. 13992 of 2018 (O&M) -1- 2023:PHHC:095441

In the High Court of Punjab and Haryana at Chandigarh

CWP No. 13992 of 2018(O&M)

Date of Decision: 27.07.2023

Jagram Chauhan

---Petitioner

versus

Union of India and others

---Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr.Gaurav Mohunta, Advocate and
 Mr. Gaurav Gogna, Advocate
 for the petitioner

 Mr. V.K.Kaushal, Advocate
 for Union of India

 Mr. Jai Vir Yadav, Senior Advocate with
 Mr. Aman Gautam, Advocate and
 Mr. Gagandeep, Advocate
 for respondent No. 4

 Mr. Vijay Pal, Advocate
 for respondent No. 5

 Mr. Deepinder Singh, Advocate
 for respondent No. 6

JAGMOHAN BANSAL, J. (ORAL)

CM No. 16108-CWP-2018

1. Allowed as prayed for.

2. Short reply by way of affidavit dated 13.09.2018 of respondent No. 5 is taken on record. Registry is directed to tag the same at an appropriate place.

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3. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 12.05.2018 (Annexure P-26) whereby his claim for allotment of LPG distributorship has been rejected.

4. The petitioner vide application dated 11.09.2017 pursuant to advertisement dated 13.08.2017 applied for LPG distributorship of respondent No.2. The application was accompanied with two lease deeds which were indubitably unregistered. The petitioner was declared successful candidate in the draw of lots and asked to submit security along with requisite documents. The petitioner deposited security along with requisite documents i.e. lease deeds with owner of showroom and godown. The respondents No.2 and 3 raised objection to the effect that deeds are unregistered, thus, cannot be considered as valid piece of documents. The petitioner was granted opportunity to offer alternative land. The petitioner offered alternative land. The respondent asked the petitioner to submit documents to establish that owner of land is relative of the petitioner. The petitioner claimed owner of the land as his step-brother. In support of his contention, he submitted certificate issued by Tehsildar. On verification, the concerned Tehsildar denied of having issued said certificate. The petitioner furnished fresh certificate from another Tehsildar which confirmed that owner of land is adopted son of father of the petitioner.

5. Learned counsel for the petitioner inter alia contends though lease deeds on the date of filing application were unregistered yet deeds were got registered within a short span of two months. The petitioner had filed application on 11.09.2017 and deeds were got registered on 20/21.11.2017. The last date for filing application was 12.09.2017. The alternative land offered by the petitioner is owned by Yogesh Kumar who had been adopted by father of the petitioner, thus, Yogesh Kumar is deemed brother of the petitioner.

6. Mr. Raman Sharma, Advocate for Hindustan Petroleum Corporation Limited submits that there was categorical requirement in the brochure that lease deed on the date of application must be registered. In the case of petitioner, admittedly, the lease deed was registered after two months from the last date of filing application. He further submits that terms and conditions of brochure are sacrosanct and cannot be deviated. The authorities are not supposed to verify date of registration of each and every party and thereafter come to some conclusion. The authorities on receipt of applications are supposed to look into the factum whether lease deed was registered on the date of application or not. He relies upon judgment of Hon'ble Supreme Court in **Bharat Petroleum Corporation Limited and others vs. Swapnil Singh 2015 SCC OnLine SC 1922**. The relevant extracts of the judgment are as under:-

“8. We have gone through the records of the case along with the assistance of learned counsel for the parties and we find that the brochure read with the application form is absolutely clear in the

sense that the applicant must be the owner of the specified area of land or must have a registered lease deed of the specified area of land on the date of application. The admitted position (which is also clear from the counter affidavit filed by the respondent in this Court) is that on 13th September, 2011 when the application for allotment was made, the respondent was neither the owner of any land nor had any registered sale deed/lease deed in her name. In fact, the lease deed came into existence only on 20th December, 2012 and that was registered on 21st December, 2012. Clearly, on the date of the application, the respondent was not eligible in terms of the brochure and the application form.

9. *The Calcutta High court has proceeded on the basis of a notarized lease agreement which appears to have been produced by the respondent before the High court. A photocopy of the notarized lease agreement has been shown to us and that document is dated 13th September, 2011. Learned counsel for the respondent has relied upon this document to contend that the respondent was eligible as on 13th September, 2011 in terms of the notarized lease agreement.*

10. *We are unable to accept this contention of learned counsel for the respondent. The brochure and the application form clearly require the applicant to have a registered lease deed in her name. What is shown to us is a notarized document and admittedly this document, even though it may have been in existence, was formalised into a lease agreement only on 20th December, 2012 and that was registered on 21st December, 2012. The notarized document, therefore, does not advance the case of the respondent any further. Therefore, it is quite clear that the respondent was not eligible on the date of application, i.e., 13th September, 2011.*

11. *Under the circumstances, we allow these appeals and set aside the order passed by the Division Bench of the Calcutta High Court. No costs.”*

With respect to alternative land offered by petitioner, he submits that Yogesh Kumar, who was owner of the land, was neither real nor step brother of the petitioner, thus, application was rejected.

The respondent-corporation got certificate submitted by petitioner verified from the jurisdictional authorities and came to know that certificates were not issued by the officer concerned and subsequent certificate is indicting that Yogesh Kumar is adopted son of father of the petitioner.

7. I have heard arguments of learned counsel for the parties and with their able assistance perused the record.

8. From the perusal of record, it is quite evident that last date for filing application was 12.09.2017 and by that date, petitioner was not having registered lease deed. The petitioner got lease deed registered on 20-21/11/2017 i.e. much later than the last date of filing applications. The case of the respondent is squarely covered by judgment of Hon'ble Supreme Court in **Swapnil Singh (supra)**. In view of judgment of the Hon'ble Supreme Court, there seems no reason to form an opinion in favour of the petitioner.

9. With respect to claim of the petitioner qua land owned by Yogesh Kumar, this Court finds that at the first instance Tehsildar denied having issued certificate confirming relationship of Yogesh Kumar with the petitioner and fresh certificate does not prove that Yogesh Kumar was either step brother or real brother of the petitioner.

10. In view of the above facts and findings, the instant petition deserves to be dismissed and accordingly dismissed.

11. Pending Misc. application(s), if any, stands disposed of.

(JAGMOHAN BANSAL)
JUDGE

27.07.2023

paramjit

Whether speaking/reasoned : Yes

Whether reportable : Yes/No