

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.2293 of 2020

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Nitu Kumari alias Nitu Devi, W/o Raman Kumar, D/o Upendra Kumar Singh,
Resident of Village-Sirsa Khap, P.O.-Sirsa Colony, P.S.-Muffasil Motihari,
District-East Champaran.

... .. Petitioner/s

Versus

1. The Union of India through Managing Director, Bharat Petroleum.
2. The Managing Director, Bharat Petroleum Corporation Limited, 12/E-8F, Maker Towers, Cuffe Parade, Post Box No.-19949, Mumbai-400005, Gram PETROTOWER.
3. The State Head, Bharat Petroleum Corporation Limited, Exhibition Road, Patna.
4. The Territory Manager, Bharat Petroleum Corporation Limited, Sherpur, Muzaffarpur.
5. The Territory Coordinator, Bharat Petroleum Corporation Limited, Sherpur, Muzaffarpur.
6. The Sales Officer, Bharat Petroleum Corporation Limited, Sherpur, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Sunil Kumar No.III, Advocate
For the Respondent/s	:	Dr. K.N.Singh, ASG
For the BPCL	:	Mr. Rajeev Prakash, Advocate

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CORAM: HONOURABLE JUSTICE SMT. G. ANUPAMA CHAKRAVARTHY
ORAL JUDGMENT
Date : 06-09-2024

1. The Writ petition is filed for quashing the letter dated 10.01.2020 vide Ref. 15455574171073 (Annexure-1) passed by the Territory Manager, Bharat Petroleum Corporation Limited, Sherpur, Muzaffarpur whereby the petitioner's candidature was declared ineligible for the retail outlet dealership. The petitioner has further prayed to give direction to the respondents to allot the license for running business of



Bharat Petroleum Corporation Limited (in short referred to as “BPCL”) as a dealer.

2. The brief facts culled out of the petition are that one advertisement was published by the respondents-BPCL on 25.11.2018 for appointment of retail outlet dealerships in the State of Bihar. The respondents-BPCL have issued brochure dated 24.11.2018 laying down criteria for appointment of retail outlets dealerships. It is submitted by the petitioner that pursuant to the advertisement dated 25.11.2018, the petitioner submitted her application on 23.12.2018 for appointment of retail outlet dealership from Chhatauni Chowk to Madhubani Ghat on Motihari – Madhubani ghat Road Block Motihari along with required documents before the respondent No. 4. It is further submitted that the petitioner was declared successful candidate in the DRAW OF LOTS conducted on 5.12.2019 Ref. 15455574171073 for selection of Retail Outlet Dealership in question and further directed therein to deposit Rs. 40,000/- towards initial security deposit, which was deposited by the petitioner on 11.12.2019. It is contended that the petitioner has been informed by the BPCL vide letter dated 08.01.2020 that BPCL Officers will visit on 17th January, 2020 for carrying out field verification of the land, however, again by letter dated



09.01.2020 the respondents have further informed the petitioner that due to some unavoidable circumstances the field verification of credential date planned was rescheduled and now it will be verified on 09.01.2020 and accordingly, the field verification of the land was made by the Land Evaluation Committee.

3. It is submitted on behalf of the petitioner that by letter dated 10.01.2020, Ref. 15455574171073 (Annexure-1), the respondent BPCL has informed the petitioner that during Field Verification of Credentials, the petitioner has failed to produce original land documents for verification by the Officer / the land documents produced by the petitioner were at variance with the documents submitted / information given in the application as the land offered is owned by applicant's Grandfather-in-Law who is not in the family unit for Group I category as described in dealer selection guidelines and, accordingly, the BPCL informed the petitioner that the candidature of the petitioner has been found ineligible, however, the candidature of the petitioner may be considered for selection along with Group-3 applicant as per guidelines.

4. It is further contended that after passing of the impugned letter dated 10.01.2020, the petitioner filed



representations before respondent No. 3 and respondent no. 5 on 13.01.2020 for considering her candidature in light of Clause 4(v)(e)VIII of the guidelines.

5. It is submitted that the land in question bearing khata no. 156, khesra No. 133, area 6 katha 11 dhur was purposed to install petrol pump and the said land stands in the name of Raja Prasad Singh, who happens to be the Grandfather-in-Law of the petitioner and pursuant to the brochure, Clause 4(v)(e) viii, petitioner is liable to be read with family unit of Raja Prasad Singh and furthermore, the Grandfather-in-Law has given notarized affidavit whereby he has proposed to open retail outlet dealership, but the respondents in arbitrary manner has disqualified the petitioner and ignored the same and passed the impugned letter (Annexure-1). It is further contended that Clause 4(v)(e) viii deals with Grand Parents (both maternal & paternal) and the question arises as to whether Grandfather-in-Law will come under the Clause of grandparents or not? as the petitioner is granddaughter-in-law of Raja Prasad Singh and under law will she inherit the property of Raja Prasad Singh. Apart from that, Raja Prasad Singh had given notarized affidavit in support of the petitioner, but the respondents have not considered the same and has wrongly arrived at the



conclusion that the land offered is owned by applicant's Grandfather-in-Law and he is not in the family Unit for Group I category as described in dealer selection guideline and passed the impugned letter. Hence, the petitioner was constrained to file Writ petition.

6. A detailed counter affidavit has been filed by the respondent Nos. 2 to 6.

7. At the outset, respondents have raised preliminary objection with regard to maintainability of the Writ petition on the grounds of suppression of material facts by the petitioner. It is averred that against the Retail Outlet in question, the respondents Corporation has issued a Letter of Intent dated 29.07.2023 in favour of selected candidate Sri Rajesh Kumar, which was not challenged by the Writ petitioner. It is also averred that petitioner has deliberately suppressed letter dated 21.01.2020 issued by respondent No. 5, whereby the representation of the petitioner dated 13.01.2020 has been replied and was disposed of by the Corporation. It is further averred that as per Clause No. 4(v)(e) of the Dealer Selection Brochure 2018, grandfather-in-law or Grandfather-in-Law does not come under the definition of "family member" for considering under Group -I, hence, the candidature of the



petitioner was rightly found to be ineligible and the petitioner was unable to offer land as required under Group-1 as mentioned in Clause 4(v) which reads as follows”

"Clause-4(v) Land (Applicable to all categories): The applicants would be classified into three groups as mentioned below based on the land offered or land not offered by them in the application form:-

Group 1: Applicants having suitable piece of land in the advertised location/area either by way of ownership / long term lease for a period of minimum 19 years 11 months or as advertised by the OMC."

8. It is further averred in counter affidavit with regard to the statement made in paragraph no. 7 of the writ petition that the statement made therein are misconceived and not fully true. It is submitted that repeated requests were made by the petitioner to the Corporation for changing the date for Field Verification. The petitioner has fully suppressed her request letters written to the Corporation for oblique purpose. It is lastly submitted on behalf of the respondent Corporation that the petitioner failed to approach this Court with clean hands and she is not entitled for any relief.

9. A rejoinder to the counter affidavit was filed by the



petitioner denying the allegations levelled by the respondent Corporation in counter affidavit and reiterated her stands taken in writ petition.

10. Heard rival contentions of the Learned counsel for the petitioner as well as Learned counsel for the respondents.

11. The entire crux of the case is whether as per Clause No. 4(v)(e) of the Dealer Selection Brochure 2018, Grandfather-in-Law or Grandparents-in-Law come under definition of “family member” for considering under Group -I or not ?

12. It is the specific contention of the Learned counsel for the respondents BPCL that as per Clause No. 4(v)(e) of the Dealer Selection Brochure 2018, grandfather-in-law or grandparents-in-law do not come under definition of family member for considering under Group -I, hence, the candidature of the petitioner was rightly found ineligible. For better appreciation of the facts, Clause No. 4(v)(e) of the Dealer Selection Brochure 2018, is quoted hereinbelow:

“4(v)(e) The land owned by the family member(s) will also be considered as belonging applicant (Group-1) subject to producing the consent letter in the form of affidavit (Appendix III A) from the concerned family member(s).

For this purpose family members would comprise of:-



- (1) Self
- (11) Spouse
- (iii) Father/Mother including Step Father/StepMother
- (iv) Brother/Sister/Step Brother/StepSister
- (v) Son/Daughter/Step Son/StepDaughter
- (vi) Son-in-law/Daughter-in-law
- (vii) Parents-in-law
- (viii) Grand Parents (both maternal & paternal) ”

13. From perusal of Clause No. 4(v)(e) of the Dealer Selection Brochure 2018, it appears that the land offered by petitioner of that of Grandfather-in-Law does not come under definition of family member for considering under Group -I. Therefore, the respondents have rightly rejected the candidature of the petitioner.

14. In view of the aforesaid discussion, the Writ petition is dismissed as devoid of merit.

15. Interlocutory application(s), if any, shall stand disposed of.

(G. Anupama Chakravarthy, J)

Spd/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	12.09.2024
Transmission Date	NA

