

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.9875 of 2023

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Mohd Abul Kalam @ Md. Abul Kalam Son of Mohammad Abid Hussain
Resident of Ward No.-2, Dumriyahi Kormauli, P.S.-Khajauli, District-
Madhubani.

... .. Petitioner/s

Versus

1. The Indian Oil Corporation Limited through its Chairman-Cum-Managing Director, G-9, Ali Yavar Jung Marg, Bandra East, Mumbai-400051.
2. The Chairman-Cum-Managing Director, The Indian Oil Corporation Limited.
3. The General Manager, Area Office, Indian Oil Corporation Limited, Lok Nayak Jai Prakash Bhawan, 5th Floor, Dak Banglow Road, Patna-800001.
4. The Divisional Sales Head, Muzaffarpur Divisional Office, Indian Oil Corporation Limited, Muzaffarpur.
5. Binay Kumar Ray, Son of not known to the petitioner, Resident of Rasidpur, P.S.-Khajauli, District-Madhubani, Pin-847229.

... .. Respondent/s

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Appearance :

For the Petitioner/s	:	Mr. Md. Harun Quareshi, Adv.
For IOC	:	Mr. Sanat Kr. Mishra, Adv.
For Respondent No. 5	:	Mr. Rana Bhupendra Nr. Singh, Adv.
For the Respondent/s	:	Mr. Sanat Kumar Mishra, Adv.

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL JUDGMENT

Date : 03-10-2024

Heard the learned counsel for the parties.

The present writ petition has been filed for the following
reliefs:-

“i. For quashing the BSO/RO/2023/MDO/1044 letter no. dated 22.05.2023. issued by respondent no. 4 whereby and where under on wrong assumption of facts, he has cancelled the candidature of the petitioner for RO Dealership.

ii. For quashing the letter dated 26.05.2023 by which the candidature of the petitioner moved from Group 1 to Group – 3.

iii. For commanding the respondents to award the RO dealership to the petitioner.

iv. For any other appropriate relief or reliefs may be granted in favor of the petitioner as your lordship may deem fit and proper.”



3. It is the case of the petitioner that pursuant to the advertisement issued by the respondent IOCL, the petitioner has applied for the Retail Outlet (RO) Dealership on 11.02.2018. That he has obtained a registered lease in the month of December 2018 from the original owner and submitted the documents. However, the authority on a complaint made by a third person namely Imtiaz Ahmed on 02.01.2020, has rejected the application of the petitioner on the ground that at the time of verification it was found that the land proposed by the petitioner was owned by two persons. That petitioner had submitted a lease deed executed by only one of the owner and not both. Learned counsel has stated that the petitioner has submitted the No Objection Certificate from the other owner stating that he has no claim over the subject property for which lease deed was executed in favour of the petitioner. That an oral partition took place between the two brothers and the other brother did not have any interest or the right in the subject property. Therefore, the authority was not right in rejecting the application made by the petitioner on the ground that the lease deed was executed only by one owner and by the other owner.

4. *Per contra*, the learned counsel appearing on behalf of the respondent IOCL has stated that the NIT was issued on



25.11.2018. The petitioner had applied in the month of November, 2018 and the petitioner was having a lease deed executed by only one of the owners. That at the time of verification, it came to light that the lease deed was executed by one owner only and the other owner has not leased at. Though, the petitioner had submitted the consent of the other owner by a way of affidavit, the same was done only in the month of December, 2022. That as per the guidelines issued by the IOCL, more particularly, the eligibility criteria, the individual applicants have to submit documents evidencing that they are having necessary title or that they have lease deed.

5. Learned counsel has stated that the authorities were well within their rights in rejecting the application made by the petitioner due to the discrepancies found at the time of verification. Further, it is stated that the application of the petitioner has been moved from Group-1 to Group-3 only and in case qualified applicants are not available in Group-1 or Group-2, the candidature of the person in Group-3 will be considered. Further, it is stated by the counsel for the respondent IOCL that respondent No. 5 herein has already been allotted the Retail Outlet, therefore, nothing remains in the present writ petition which entitles the petitioner for the grant of relief sought for.



6. Admittedly, in the present case, the petitioner has applied for the Retail Outlet of the petrol dealership pursuant to the advertisement given by the respondent-IOCL. As per the terms and conditions of the guidelines issued by the respondent IOCL more particularly, Clause 5a which reads as under;

“(a) The land should be available with the applicant as on the date of application and should have minimum lease of 19 years and 11 months (as advertised by respective oil company) from the date or after the date of advertisement but not later than the date of application.”

7. As per the above said guidelines, the petitioner was obligated to submit necessary documents evidencing that the proposed site was either in his name or in case any lease deed is executed, the lease deed is executed by all the owners whose names are reflected in the revenue record. However, as admitted by the petitioner himself, the petitioner has submitted the lease deed executed by only one of the owners, the consent of the owner by way of affidavit was only filed in the month of December, 2022. If the contention of the petitioner that an oral partition have taken place between the two brothers is taken as true, then the name of only one of the owners who has executed the lease deed could had reflected in the revenue records. However, as per the report of the Circle Officer the name of two persons is reflected in the revenue record and no jamabandi has taken place in favour of



only one person. When the conditions stipulate that the application has to submit all the necessary documents which evidence that the lease deed is executed by all the owners, the said condition cannot be violated. In this particular case as seen from the guidelines of the IOCL, any document submitted by the petitioner had to be as on the date of making the application but not subsequently. The petitioner having failed to submit the lease deed by both the owners cannot claim that the subsequent document i.e., the consent affidavit of the other co-owners should also be considered while considering the application is without any legal basis and cannot be countenanced.

8. In view of the above mentioned facts and circumstances, this Court does not find any merit in the present writ petition which warrants any interference or granting the relief sought by the petitioner. The writ petition being devoid of merits is accordingly dismissed.

(A. Abhishek Reddy, J)

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AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	08.10.2024.
Transmission Date	NA

