

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.17770 of 2022

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Lalan Kumar Son of Sri Kapildeo Baitha, Resident of Village-Chiraiya, Post Office-Chiraiya, Police Station-Chiraiya, District-East Champaran.

... .. Petitioner/s

Versus

1. The Indian Oil Corporation Ltd. through its Chairman cum Managing Director, G-9, Ali Yavar Jung Marg, Bandra (East), Mumbai.
2. General Manager, Retail Sales, Indian Oil Corporation Ltd., Bihar State Officer, Jai Prakash Lok Narayan Bhavan, 5th Floor, Dak Bunglow Road, Patna-800001.
3. Executive Director, Retail Sales, Indian Oil Corporation Ltd., Bihar State Officer, Jai Prakash Lok Narayan Bhavan, 5th Floor, Dak Bunglow Road, Patna-800001.
4. Divisional Retail Sales Head, Muzaffarpur Divisional Office, Indian Oil Corporation Ltd., Marketing Division, Krishna Complex, Akharaghat Road, Muzaffarpur-842001.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Sanjeev Ranjan
For the Respondent/s : Mr.Ankit Katriar

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY

ORAL ORDER

13 19-11-2024 Heard the learned counsel for the parties.

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

“(i) For a writ of certiorari to quash the letter dated 05.04.2022, vide reference no. MDO/ KSK/92 issued under the signature of respondent no. 4 by which the preliminary intimation given to the petitioner for being provisional selected for allotment of KSK Dealership at location Belahi, Block Chiraiya, District - East Champaran under SC Category has been rejected in an illegal and arbitrary manner.

(ii) For a writ of mandamus directing the Respondent Corporation to



consider case of the petitioner for allotment of KSK Dealership at location Belahi, Block - Chiraiya, District - East Champaran under SC Category by issuing the letter of intent for opening the Retail Outlet as the petitioner fulfills all the eligibility criteria required for allotment of such dealership and consequently the Respondent Corporation may be directed to allot the dealership as the petitioner was declared successful in the draw of lot, which is the pre-requisite for such appointment.

(iii) For a direction that the Respondent Corporation be restrained from creating third party right during the pendency of the present writ application by allotting the Retail Outlet for the said location.

(iv) For any other relief / reliefs to which the petitioner is found entitled in the facts and circumstances of the case.”

3. Learned counsel appearing on behalf of the petitioner has stated that pursuant to the advertisement issued by the respondent-Corporation, the petitioner has applied for allotment of KSK dealership at Belahi, Block-Chiraiya, District East Champaran under SC Category. That along with application, the petitioner has submitted all the requisite documents. Learned counsel has stated that the land verification was also conducted and the land of the petitioner was found suitable, however, the authorities vide letter dated 05.04.2022 (Annexure-6) has informed the petitioner that his candidature is not found eligible for the KSK, the reason given is held as under;



“a. You have submitted a registered lease documents no:5979 dtd: 21.10.2016 and a sub-lease document no:6119 dtd:31.10.2016. Both the documents submitted cannot be considered a valid land document as the first one is not have sub-lease clause and second being a sub-lease document.”

4. Learned counsel has stated that the petitioner has submitted the necessary documents including the lease deed executed by the owner and also the separate sub-lease executed in favour of the respondent-Corporation but the authorities did not take the same into consideration. Further, learned counsel has drawn the attention of this Court to the guidelines issued by the authorities i.e., Annexure R/2, more specifically, the eligibility criteria for individual applicant/ proprietorship/ partnership, wherein under the heading “Land (Applicable to all categories)” it is stated as under;

“(vi) Land (Applicable to all categories):

The applicants would be classified into two groups as mentioned below based on the land offered by them in the applicable form:-

Group 1:

Group 2:

The other conditions with respect to offering of land are as under:-

a)

b) If the offered land is on Long term lease, then the Lease agreement should have a provision to Sub-lease the land wherever the locations are advertised under Corpus Fund Scheme (CFS), Other Corporation Owned Sites (“A”/ “CC” sites) and Company Leased sites.

For Dealer owned sites (“B”/ “DC” sites), the applicant should ensure that the land arranged by the applicant is either registered in the applicant’s name or leased in favour of the applicant for a minimum period of XX years.

c)

d)

e)

f)

g)



h).....”

5. Learned counsel has stated that admittedly in the present case, the petitioner’s site is for the purpose of dealership and, therefore, the stand taken by the authorities that the sub-lease clause should be incorporated in the lease deed is without any basis. Learned counsel has stated that the petitioner, if given an opportunity, will submit a fresh lease deed containing the clause for sub-leasing the subject property offered by the petitioner.

6. *Per contra*, the learned counsel for the respondent-Corporation has vehemently opposed the very maintainability of the present writ petition and stated that the authority, duly taking into consideration the fact that the original lease submitted by the petitioner did not have any clause containing the sub-lease, has rightly rejected the candidature of the petitioner. Further, learned counsel has stated that one of the criteria which was clearly envisaged under the advertisement was that the lease deed should contain a sub-lease clause but the same is absent in the original lease deed executed in favour of the petitioner. Though the petitioner has submitted a sub-lease, the same is without any legal basis i.e., the same was executed in absence of any authorized person from the respondent-Corporation. Learned counsel has therefore, prayed this Hon’ble Court to



dismiss the present writ petition.

7. The question is as to whether the clause containing the sub-lease of the land has to be incorporated or not, if the lease deed are subject to the interpretation. A bare reading of the eligibility criteria, more particularly, clause 6b reveals that in respect of dealer owned sites (“B”/“DC” sites), the same is not requirement and its only applicable for sites (“A”/“CC” sites). On this ground itself, the impugned order is liable to be set aside. However, keeping the interest of both the parties and also to give an opportunity to the petitioner, the petitioner is granted time of six weeks to submit a fresh lease deed containing the sub-lease clause in respect of the very same site which was initially offered by him. On such lease deed being filed, the authority shall proceed with the matter and if the petitioner is found otherwise eligible grant the dealership in his favour.

8. With the above direction, the present writ petition stands disposed of.

(A. Abhishek Reddy, J)

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