

13.06.2024
SPL No.1
Court No.24
Ali

WPA 15580 of 2024

**Rahul Gupta
Versus
Union of India & Ors.**

Ms. Susmita Saha Dutta,
Mr. Niladri Saha,
Ms. Madhurima Basu
.....for the petitioner.

Mr.D. Chakraborty,
Mr. Goutam Sardar,
Mr. Goutam Malik
.... for the respondent No. 1 Union of India.

Mr.S.K. Mal,
Mr. Bimalandu Das,
Mr. Shomrik Das
.....for the respondent Nos. 2, 3 & 4.

An advertisement dated 18th July, 2023 was published by Bharat Petroleum Corporation Limited for the purpose of, inter alia, inviting application for rural Retail Outlet (Petrol Pump) dealership at various location of State of West Bengal. The present petitioner applied for the dealership at District:Dakshin Dinajpur, State:West Bengal.

The present petitioner uploaded necessary application on 16.10.2023 for getting dealership for the site. A draw was held on 12.12.2023 and it was informed by the Bharat Petroleum Corporation Limited to the petitioner on 19th December, 2023 that he was provisionally selected as a successful candidate in the said draw of lots, Vide communication dated 19th January, 2024, the

petitioner was informed to upload the required documents along with security deposit by 29th January, 2024. He failed to comply the said communication, thereafter; again one communication was made on 30th January, 2024, allowing the petitioner to comply the procedure by uploading required document along with the initial security deposit amount by 9th of February, 2024. It is the case of the petitioner that his Mobile set being disturbed was handed over to a technician of a shop. The shop was closed for seven days and after another seven days the shop was open. The shopkeeper told him that the mobile was untraced and, thereafter, he was stated the Mobile was misplaced. It is further case of the petitioner that, after purchasing the new Mobile, on seeing the mail he tried to upload the documents but unfortunately the link was closed. Accordingly, he made a representation to the concerned authority on 19th of February, 2024 requesting the authority to give him a chance, so that, he may allow to upload the document and the statutory deposit. No answer was forwarded to the concerned authority but, subsequently, he came to know from a communication of the Bharat Petroleum Corporation Limited to his father (and their applicant) that the new draw of lots would be conducted on 18th June,

2024. Now the present petitioner is before this Court with a prayer so that a specific direction upon the respondent authority be made to allow the present petitioner to participate in the draw of lots to be held on 18th June, 2024.

Learned advocate for the petitioner submits that due to the unavoidable circumstances, he could not comply the direction and communication of the Bharat Petroleum Corporation Limited. He was the successful candidate in the 1st draw. So, he may be allowed to take part in the said draw to be held on 18th June, 2024.

Learned advocate appearing on behalf of the Bharat Petroleum Corporation Limited raised strong objection and submits that the prayer of the present petitioner cannot be considered, rather, the writ petition is liable to be dismissed to be exemplary cost. He submitted that on twice occasion the present petitioner was allowed to comply the formalities according to the procedure but he did not furnish or uploaded the required documents as well as did not deposit the security amount. Accordingly, on 17th February, 2024 a communication was made by the Bharat Petroleum Corporation Limited to the petitioner containing, inter alia, with specific reasons that his candidature has been canceled. A reply mail on 18th February, 2024 was also received

by the Bharat Petroleum Corporation Limited from the petitioner containing, inter alia, that he may be allowed to upload the documents and also to deposit the security fees.

Learned advocate for the Bharat Petroleum Corporation Limited submits that the present petitioner was well aware about the facts but now he demonstrates a separate fact before this Court to have a favourable order.

Heard the learned advocates perused the documents as well as the prayer made in the writ petition. On the outset it is admitted that the present petitioner was successful in the 1st draw and it is also admitted that the present petitioner was given two opportunities to comply with the formalities to upload the specified documents to the portal along with the security deposit. It is also admitted fact that no such formality was conducted by the present petitioner. The fact suggested that on 17th February, 2024, the candidature of the present petitioner was cancelled; on 18th February, 2024 he made a representation with a mark "I am sorry"; on 19th February, 2024 he sent one representation to the respondent authority concerned with some new facts which appears to me after thought.

The instant writ petition is preferred with a prayer for a direction upon the concerned authority

so that, the petitioner may be allowed to participate in the draw of lots to be held on 18th June, 2024.

If the said prayer is allowed, it would actually terminate the order of respondent authority regarding cancelation of candidature of the petitioner.

The petitioner has not approached the Court against the order of cancelation of his candidature, though it was within his knowledge.

Moreover, the impugned representation of the petitioner is not specific and ambiguous, it is not mentioned in the representation when (the date) the Mobile Phone of the petitioner was disturbed and when it was lost. No police diary was made for the lost of the Mobile Phone.

Thus, it is clear to this Court that the petitioner has come to this Court by suppressing material facts; thus he is not entitled to any equitable relief.

Considering the entire situation, it appears to me that the present petitioner cannot be allowed to intrude into the new draw. Moreover, his right for participation has already been cancelled on 17th February, 2024 by assigning cogent reason by the concerned respondent, so I think it necessary to hold that the present petitioner is not entitled to get any relief to the instant writ petition.

Accordingly, the application being **WPA 15580 of 2024** is dismissed and disposed of.

All connected applications, if any, stand disposed of.

Parties to act upon the server copy and urgent certified copy of this order be provided on usual terms and conditions.

(Subhendu Samanta, J.)