

**IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE**

**PRESENT:
THE HON'BLE JUSTICE BIVAS PATTANAYAK**

**W.P.A. 21365 of 2019
Rita Nandi
versus
Indian Oil Corporation Limited & Ors.**

For the Petitioner	: Mr. Debabrata Saha Roy, Advocate Mr. Pingal Bhattacharyya, Advocate Mr. Subhankar Das, Advocate Mr. Neil Basu, Advocate Mr. Sankha Biswas, Advocate
For the Respondents	: Mr. M. S. Yadav, Advocate Mr. Subhankar Chakraborty, Advocate Ms. Ruchira Manna, Advocate
For the State	: Mr. Amirtalal Chatterjee, Advocate
Heard on	: 25.01.2024, 02.02.2024, 21.02.2024, 07.03.2024
Judgment on	: 24.04.2024

Bivas Pattanayak, J. :-

1. This writ petition has been filed by the petitioner under Article 226 of the Constitution of India for directing the respondents-Indian Oil Corporation Ltd. (hereinafter referred to as 'IOCL') for commissioning of LPG Distributorship at the advertised location at Shyambazar, under Shyambazar Gram Panchayat, P.S.- Goghat, District-Hooghly pursuant to advertisement of vacancy declaration dated 31st August, 2017.

2. The brief fact of the case is as follows:

- (i) On 31st August, 2017, the Bharat Petroleum Corporation Ltd. (BPCL), Hindustan Petroleum Corporation Ltd. (HPCL) and Indian Oil

Corporation Ltd. (IOCL) jointly published advertisement in the Bengali newspaper *Ananda Bazar Patrika* for appointment of LPG Distributorship in different places of West Bengal.

(ii) One vacancy for appointment of Gramin LPG Distributor at Shyambazar, under Shyambazar Gram Panchayat, Block- Goghat-II, District-Hooghly reserved under the category OBC(W) at serial no.75 of the advertisement was declared by the respondents-IOCL authority.

(iii) The petitioner having all the eligibility criteria including land for construction of showroom and godown applied for appointment of LPG Distributor against the subject vacancy.

(iv) Save and except the petitioner, there was no applicant for appointment of LPG Distributorship at the subject location. As such the petitioner was declared as successful candidate for appointment of LPG Distributor against the subject location.

(v) The petitioner was instructed to deposit a sum of Rs. 30,000/- for field verification and also instructed to submit other documents.

(vi) Upon such instruction, the petitioner deposited a sum of Rs.30,000/-. The respondents-IOCL scrutinized the documents including the document of land offered by the petitioner for construction of godown and showroom and it conducted field verification on 9th January, 2018.

(vii) On receipt of the field verification report, the respondents-IOCL being satisfied issued Letter of Intent in favour of the petitioner on 28th February, 2018 and instructed the petitioner to take all efforts for

commissioning of the distributorship within four months from the date, failing which the Letter of Intent will be withdrawn.

(viii) The petitioner thereafter made construction of showroom and godown on the plot of land offered mentioned in the application expending almost an amount of Rs. 40,00,000/-.

(ix) The name of petitioner's LPG Distributorship i.e. '*Pandugram Indane Gramin Vitrak*' was approved by respondents-IOCL vide memo dated 11th August, 2018.

(x) Thereafter the petitioner applied for fire licence, NOC from the District Magistrate, trade licence, NOC from the Panchayat and Panchayat Samity, conversion of land which were duly granted by the authorities in favour of the petitioner.

(xi) Despite fulfilling all criteria of eligibility and completing necessary formalities, the respondents-IOCL authority had withheld to allow the petitioner to commission the LPG Distributorship.

(xii) Being aggrieved by such action of respondents-IOCL, petitioner has filed the present writ petition.

3. The respondents-IOCL filed its affidavit-in-opposition and contented inter alia as follows:

(i) Upon verification it was found that the land offered by the petitioner falls under Mouza-Pandugram and not in the advertised location-Shyambazar. The GST Certificate and the First Trade Licence as provided by the petitioner also reflect her address as Pandugram. The village code of Shyambazar is different that of Pandugram, though

both the mouzas namely Pandugram and Shyambazar exist under Goghat Police Station.

(ii) The showroom land offered by the petitioner did not fall in the advertised location, nor any document was found to prove ownership of the petitioner with respect to the showroom land before the last date of submission of application i.e. 18th October, 2017.

(iii) The petitioner at the time of application did not have any land for construction of showroom in the advertised location, hence the disclosure of the petitioner made in the application in respect of the land which does not fall within the advertised location, is nothing but misrepresentation and suppression of material facts.

(iv) It is clearly spelt out in the Unified Guidelines for Selection of LPG Distributors that if any statement made by the applicant in the application or in the documents enclosed therewith or subsequently submitted in pursuance of the application, at any stage, is found to have suppressed/misrepresented/ incorrect or false affecting eligibility, then the application/candidature is liable to be rejected without assigning any reason.

(v) The validity of the Letter of Intent of the petitioner was not extended in absence of her progress in the consecutive four month of issuance of Letter of Intent and the petitioner did not request for extension of the validity period. The petitioner's Letter of Intent expired in the year 2018. Since no construction was undertaken during the validity of the Letter of Intent, there cannot be any extension of the period of validity of the Letter of Intent.

(vi) The candidature of the petitioner was put up for cancellation as per norms and conditions of the brochure and approval has been obtained from appropriate authority of IOCL for withdrawal of Letter of Intent issued to the petitioner.

(vii) On such basis, the respondents-IOCL prayed for dismissal of the writ petition.

4. Mr. Debabrata Saha Roy, learned advocate for the petitioner submitted that the petitioner was the sole applicant for LPG Distributorship at the advertised location Shyambazar. She was selected by the respondents-IOCL and Letter of Intent was issued in her favour. However, till date, the commissioning of the LPG distributorship has not been done by the respondents-IOCL. Before issuing the Letter of Intent, the respondents-IOCL has conducted enquiry and made field verification and scrutinized all the original documents and thereafter, on being satisfied, issued the Letter of Intent. The prime ground raising objection to commissioning of LPG distributorship is that the land of the petitioner does not fall within the advertised location Shyambazar. Shyambazar is a big village. As per the advertised location, it only specifies "*Shyambazar*". A considerable portion of Shyambazar village also falls under Pandugram Mouza. The documents, which have been produced by the State authorities, and the reports of the concerned officer clearly show that the land of the petitioner falls within area Shyambazar. Therefore, the petitioner qualifies as regards the offered land within the advertised location.

Further the land offered by petitioner was inspected by the officials of the Oil Company on 9th January, 2018. No such objection was raised on such

date that the petitioner's land does not fall within Shyambazar. The objection to the commissioning of the LPG distributorship in favour of the petitioner on such ground was raised only after the present writ petition was filed. The proposed name of LPG distributorship i.e. *Pandugram Indane Gramin Vitrak* at Shyambazar was also approved by the respondents-IOCL. The Shyambazar Gram Panchayat has also given no objection in respect of the gas godown and showroom at Mouza Pandugram falling within its Panchayat area. In all the documents, Mouza Pandugram has been mentioned but nowhere it states that "*Pandugram*" does not fall within the area of Shyambazar and, therefore, the objection raised in this regard by the respondents-IOCL is not tenable. He submitted that necessary order be passed directing the respondents-IOCL for commissioning of LPG distributorship in favour of the petitioner at the advertised location at Shyambazar.

5. *Per contra*, Mr. M. S. Yadav, learned advocate for the respondents-IOCL submitted that the advertised location is Shyambazar. Though Letter of Intent was issued in favour of the petitioner, however, subsequent to such issuance of Letter of Intent, upon further enquiry, it had revealed that the land offered by the petitioner falls within Mouza-Pandugram and not within the advertised location. From the Government records, it is found that the village code of Shyambazar and Pandugram are different though both the mouzas exist under Goghat Police Station. Thus, the showroom land offered by the petitioner did not fall in the advertised location. Referring to the decision of this Court passed in ***Ranjit Kumar***

Rishi versus The Union of India & Ors.¹, he submitted that a village generally comprises of one mouza and, therefore, since Pandugram and Shyambazar are separate mouzas with different village code, they are altogether different places. The petitioner in her online application mentioned the showroom address as 'LR Plot No. 2805', Tatulmuri to Arambagh Road, Shyambazar G.P., Hooghly, West Bengal, Pin- 712122 and godown address as 'LR Plot No. 2804, 2810', Mouza-Pandugram, Hooghly, West Bengal. It is palpable that the petitioner purposefully, in order to suppress the material fact, did not state the mouza within which the showroom is situated. In fact, the petitioner did not have any land within the advertised location on the date of application. When such fact came to the knowledge of the respondents-IOCL that the showroom of the petitioner is outside the advertised location the candidature of the petitioner was put up for cancellation as per norms and conditions of the brochure and approval has been obtained from appropriate authority of respondents-IOCL for cancellation of Letter of Intent. The Oil Company reserves the right to reject the candidature of any of the applicants at any stage if there is any anomaly/discrepancy in the details provided in the application. The petitioner received the No Objection Certificate from the Petroleum and Explosives Safety Organization 24th January, 2019 and, therefore, it can well be presumed that no construction commenced till such period. The Letter of Intent of the petitioner expired in the year 2018 and there is no work of construction commenced within the validity of

¹ ***FMA No. 1030 of 2016 (Decision of High Court at Calcutta)***

Letter of Intent (LOI). The petitioner is thus not entitled to any extension of Letter of Intent.

In her application the petitioner has offered land for showroom at Plot No. 2805 and for godown at Plot Nos. 2804 and 2810. Upon physical verification of the land, the Block Land and Land Reforms Officer submitted report wherein it is mentioned that the construction of showroom is done in Plot No. 2804 and construction of godown is done in Plot Nos. 2804 and 2810. The Plot No. 2805, which was offered for showroom, is vacant. Thus the petitioner constructed the showroom and godown at the same place meaning thereby that the showroom is not being constructed on the offered land which clearly violates the terms and conditions given in the application as well as the conditions of brochure.

He further submitted that the respondents-IOCL being the administrative authority is equally bound by the norms, standards and procedures laid down by it for others. Disregard of the norm or standard would invalidate its action unless based on some valid principles which is neither irrational nor unreasonable or discriminatory. Rule against such arbitrary action binds the Government and all corporations and bodies acting as instrumentalities and agencies of the Government in the grant of largesse, jobs, government contracts and issue of quotas and licences etc. The standard of eligibility laid down in the application cannot be departed arbitrarily. Thus, for the reasons of violation of conditions of the application by the petitioner, the respondents-IOCL is bound by norms and standard to cancel the Letter of Intent (LOI) issued to the petitioner. To buttress his contention, he relied on the decision of Hon'ble Supreme

Court passed in ***Raman Dayaram Shetty versus International Airport Authority of India and Others***².

Moreover, he further submitted that there should be strict adherence to the terms and conditions of the brochure to avoid unnecessary prejudice to the candidate or the authority during the course of appointment/engagement. Since the petitioner has failed to provide land in the advertised location, applying the above principles, her candidature is liable to be cancelled. In support of his contention, he relied on the decision of Punjab and Haryana High Court passed in ***Indu Gupta versus Director, Sports Punjab, Chandigarh and another***³.

Further since there is violation of the terms and conditions of the brochure/application by the petitioner, there cannot be any issuance of rule of mandamus directing the authorities to act in contravention of the rules as it would amount to compelling the authorities to violate law. Such directions may result in destruction of rule of law. To buttress his contention, he relied on the decision of Hon'ble Supreme Court passed in ***State of West Bengal versus Subhas Kumar Chatterjee and Others***⁴.

In light of his aforesaid submissions, he prayed that the writ petition should be dismissed *in limini*.

6. Mr. Saha Roy, learned advocate for the petitioner, in reply, referring to the brochure submitted that even if the petitioner constructed the showroom in some other plot, it does not violate the terms and conditions of the brochure inasmuch as the terms and conditions provide that if the

² (1979) 3 SCC 489

³ 1999 SCC OnLine P&H 500

⁴ (2010) 11 SCC 694

offered land for godown and showroom of the selected candidate, which is shown in the application, is found to be not meeting the eligibility conditions/requirements stipulated in the brochure/application at the verification stage, then the selected candidate can offer an alternate land which is owned by the applicant/member of the family unit/parents as on the last date for submission of application. The petitioner is ready and willing to meet such objection by making construction of the showroom at Plot No. 2805 as has been offered by her within a stipulated period as would be directed by this Court. He also informs the Court that no such letter was issued to the petitioner raising the issue of construction of showroom on the plots other than which was offered by her in the application. Therefore, such contention raised on behalf of the respondents-IOCL does not stand to reason. He urged for passing appropriate order for commissioning of the LPG distributorship in favour of the petitioner.

7. Mr. Amirtalal Chatterjee, learned advocate for the State-respondents submitted that the *lis* is between the petitioner and the Oil Company. The State has nothing to submit with regard to the dispute between the petitioner and the Oil Company. As per direction of this Hon'ble Court, the State has filed report regarding the advertised location which shows that the plots offered by the petitioner for showroom and godown at Mouza-Pandugram falls within Shyambazar area.

8. Having heard learned advocates for respective parties, the following issues have fallen for consideration:

- (i) Whether the land offered by the petitioner for showroom under Mouza-Pandugram is within the advertised location at Shyambazar.
- (ii) Whether the petitioner violated the terms and conditions of the brochure by making construction of godown and showroom at Plot Nos. 2804 and 2810 and not at Plot No. 2805 as detailed in the application.

Issue No.1: Whether the land offered by the petitioner for showroom under Mouza-Pandugram is within the advertised location at Shyambazar.

9. On perusal of the advertisement published in the newspaper *Ananda Bazar Patrika* dated 31st August, 2017, the advertised location has been described as Shyambazar within Gram Panchayat Shyambazar, Block-Goghat-II, District-Hooghly, Category- OBC(W). The petitioner is an applicant for LPG Distributorship in respect of advertisement dated 31st August, 2017 for location Shyambazar, Category- OBC(W). The petitioner in her application for appointment of LPG Distributor in Appendix-2 offered land for LPG godown at Plot No. 2804, 2810, Mouza-Pandugram, Hooghly, West Bengal and in Appendix-4 she offered land for showroom at Plot No. 2805 Tatulmuri to Arambagh Road, Shyambazar G.P., Hooghly, West Bengal, Pin- 712122. The aforesaid land was verified during field verification on 9th January, 2018. Thereafter, Letter of Intent was issued to the petitioner vide LOI Ref No. 2017/IN000985/000007/2111/00016 dated 28th February, 2018. It is relevant to note that the letter was received on 7th May, 2018 by the petitioner. On 11th August, 2018, the respondent-IOCL approved the name and style of the proposed LPG distributorship at Shyambazar as *Pandugram Indane Gramin Vitrak*.

The primary objection to the approval for commissioning of LPG distributorship raised by respondents-IOCL in the present writ petition is that the land for showroom as offered by the petitioner does not fall within advertised location i.e. Shyambazar and it is actually within village Pandugram. Reports were called for from the concerned department of the State authorities. The first report was submitted by Revenue Inspector, Shyambazar GP, Goghat-II, Hooghly dated 11th May, 2023. It was stated in the said report that the location of the godown is in Shyambazar under Mouza-Pandugram, J.L. No. 136, Plot Nos. 2804 and 2810 within the ambit of Shyambazar Gram Panchayat, Goghat-II, Hooghly. However, the report was silent with regard to the location of the showroom. Considering such aspect, this Court vide its order dated 20th April, 2023 directed the Block Land and Land Reforms Officer, Goghat-II to furnish a report about whether the petitioner's proposed showroom lies within the area/village of Shyambazar, Goghat-II Block, District-Hooghly. Since the report was not submitted, by order dated 22nd November, 2023, once again the Block Land and Land Reforms Officer, Goghat-II, Hooghly was directed to furnish report in terms of the aforesaid direction. Subsequent thereto vide Memo No. 1249/GT-II/23 dated 5th December, 2023 the Block Land and Land Reforms Officer, Goghat-II, Hooghly submitted report which states as follows:

“As per enquiry report submitted by RI concerned on 5.12.2023 on the basis of the order of the B.L, & L.R.O, Goghat-II in connection with WPA No. 21365 of 2019 it reveals that the applicant is in possession of concerned plots but yet to operate.

It is further been mentioned that the concerned khatian being no. 2906 consists three plots of land viz. 2804 (LPG Godown cum-Showroom), 2805 (Vacant land) and 2810 (LPG Godown).

In this regard, it is pertinent to mention here that all the above three plots of land i.e. LPG Godown-cum-Showroom (Plot no. 2804), LPG Godown (Plot No. 2810) and the vacant land (plot no. 2805) are adjacent and situated within Shyambazar Village within the ambit of Shyambazar Gram Panchayat, Goghat-II Block, Hooghly i.e. within the advertise location.”

The aforesaid report of the Block Land and Land Reforms Officer, Goghat-II, Hooghly notes that all the three plots of land namely Plot No. 2804, Plot No. 2810 and Plot No. 2805 are adjacent and situated within Shyambazar village within the ambit of Shyambazar Gram Panchayat, Goghat-II Block, Hooghly i.e. within the advertised location. The report of the Block Land and Land Reforms Officer, Goghat-II, Hooghly has been challenged by respondents-IOCL by filing an affidavit taking exception to such report on the score that the village code, J.L. number of both the places namely Shyambazar and Pandugram are different and as such they are distinct and different places. In her affidavit-in-reply, the petitioner stated that village Shyambazar is a big village and part of it is fallen under Shyambazar Mouza and considerable portion of Shyambazar village is fallen in Pandugram Mouza but entire Shyambazar is within Shyambazar Gram Panchayat, Goghat, Block-II, Hooghly. Such assertion of the petitioner gets support from the 2nd report of Block Land and Land Reforms Officer which clearly indicates that the plots namely Plot No. 2804, Plot No. 2810 and Plot No. 2805 are adjacent and it is within

Shyambazar village comprised within Shyambazar Gram Panchayat. This Court in *Ranjit Kumar Rishi (supra)* has observed that generally a village comprises of one mouza. There are instances where a village can also comprise of either a part of a mouza or group of contiguous mouzas or parts thereof. Admittedly, Goghat-II Block has several mouzas. The advertisement indicates that the location should be at Shyambazar. The report of the Block Land and Land Reforms Officer, Goghat-II, Hooghly clearly shows that all the three plots that were offered for godown and showroom fall within village Shyambazar. As such the Mouza-Pandugram and Mouza-Shyambazar fall within village Shyambazar. Therefore, the contention of respondents-IOCL that Pandugram is a separate place from Shyambazar (advertised location) cannot be acceded to as the report of the State authorities clearly show that the three plots fall under village Shyambazar. For the aforesaid reasons, the argument advanced on behalf of the respondents-IOCL that the petitioner did not have any land within the advertised location on the date of application and the offered land is a misrepresentation and suppression of material fact also does not hold good.

Issue No.2: Whether the petitioner violated the terms and conditions of the brochure by making construction of godown and showroom at Plot No. 2804 and 2810 and not at Plot No. 2805 as detailed in the application.

10. The second issue relates to violation of terms and conditions on the ground that the land offered for showroom at Plot No. 2805 has not been utilized for construction and is still lying vacant as per the report of the

Block Land and Land Reforms Officer, Goghat-II, Hooghly dated 5th December, 2023. It is a fact that as per the application Plot No. 2805 has been offered for showroom. The report dated 5th December, 2023 shows that the said plot of land being 2805 is vacant. The godown-cum-showroom has been constructed on Plot Nos. 2804 and 2810 which was actually offered for construction of godown. Upon going through the Letter of Intent dated 28th February, 2018, it appears that the construction of godown and showroom should commence after approval of the respondents-IOCL and is to be completed within a period of four months from the date of the Letter of Intent. It is relevant to note that the Letter of Intent has been received by the petitioner on 7th May, 2018. In spite of such belated delivery, the Letter of Intent was not extended. Admittedly, after issuance of Letter of Intent, no such intimation giving approval to the petitioner for construction of godown and showroom was issued by the respondents-IOCL. Therefore, even if the land offered for showroom at Plot No. 2805 is vacant till date, it cannot be said to be violative of the terms and conditions in the absence of approval for construction. During the course of hearing, learned advocate for the petitioner informed the Court that the petitioner is ready and willing to construct the showroom on Plot No. 2805 within a stipulated period after such approval is given. Thus since no approval for construction of godown and showroom was subsequently issued by respondents-IOCL, the petitioner should be allowed opportunity to comply the formalities as per requirement of Letter of Intent (LOI).

11. In *Raman Dayaram Shetty (supra)*, the facts before the Hon'ble Supreme Court was that tenders were invited by the International Airport Authority from registered second class hoteliers having at least 5 years' experience for putting up and running a second class restaurant and two snack bars at the airport for a period of 3 years. The tender of respondent 4 was the highest and the only tender which complied with the requirements of the tender form. It was pointed out by respondent 4 themselves that their experience related to catering for 10 years in running canteens for well known organizations. The main contention on behalf of the appellant was that the International Airport Authority-State was not entitled to depart from the conditions of eligibility. In relation to such fact, the Hon'ble Supreme Court held that the administrative authority is equally bound by the norms, standards and procedures laid down by it for others and was not entitled to act arbitrarily in accepting the tender. In the case at hand, it is found that the primary objection of the respondents-IOCL that the offered land of the petitioner does not fall within the advertised location has not found favour in the light of the above discussion. Thus the facts are quite distinguishable from the cited decision.

12. In *Subhas Kumar Chatterjee (supra)*, the Hon'ble Supreme Court has held no Court can issue mandamus directing the authorities to act in contravention of the rules as it would amount to compelling the authorities to violate law. Such directions may result in destruction of rule of law. In the case at hand, it is found that the objection raised against commissioning of LPG distributorship in favour of the petitioner is

precisely of not having land within the advertised location. It is found from the above discussion in the foregoing paragraphs that the land of the petitioner falls within the advertised location. Therefore, there cannot occasion any circumstances amounting to compelling the authority to violate law and act in contravention of rules. Thus, the ratio does not apply to the facts of the case.

13. In *Indu Gupta (supra)*, the facts before the Punjab and Haryana High Court was that the petitioner applied for admission in B. Tech. course. She claimed the benefit of reservation in the sports category. She could not get the gradation certificate countersigned by the Director of Sports, Punjab. So, she was not considered for admission in the reserved category of sports personnel. While dealing with such fact, the Court observed while taking into consideration several decisions, that the cumulative effect of the well enunciated principles of law is that the terms and conditions of the brochure where they used pre-emptory language cannot be held to be merely declaratory. The brochure has the force of law. Although the principles as above is substantial but since it is found that there is no such violation on the part of the petitioner such principles does not stand in the way in granting relief to the petitioner.

14. In view of the above discussion, the writ petition being no. **W.P.A. 21365 of 2019** is allowed. The respondents-IOCL is directed to extend the validity period of Letter of Intent (LOI) in favour of the petitioner. The petitioner is directed to comply the formalities as required under the Letter of Intent (LOI) within such period as would be indicated in the Letter of Intent including construction of showroom in the offered land at Plot No.

2805 within such period as would be directed by the respondents-IOCL after causing enquiry and upon approval. Subject to the aforesaid compliance and verification, the respondents-IOCL shall take appropriate steps for commissioning of LPG distributorship to the petitioner.

15. There shall be no order as to costs.

16. All connected applications, if any, stand disposed of.

17. Interim order, if any, stands vacated.

18. Urgent photostat certified copy of the order, if applied for, be given to the parties upon compliance of all necessary legal formalities.

(Bivas Pattanayak, J.)