

18-11-2024
Item No.8
Subrata
Bhattacharyya
AR(C)

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
Appellate Side

WPA No.29125 of 2024
Arnab Kumar Maji
-vs-
Indian Oil Corporation Ltd. & Ors.

Mr. D.N. Bose
Mr. Sujit Chowdhury ...for the petitioner

Mr. Puspendu Chakraborty ...for IOCL

1. Affidavit-in-opposition and affidavit-in-reply thereto filed in court be taken on record.
2. The cause of action arises out of a tender process held by Indian Oil Corporation Limited (IOCL) for appointment of retail outlet dealers. The petitioner participated in the selection process. As there were more than one eligible candidate, the selection of the retail outlet dealers was to be conducted by draw of lots.
3. The petitioner submits that as per the communication made to the petitioner by IOCL on December 3, 2023, the eligible applicants, for conducting the draw of lots, were to be present personally along with photo identity card issued by any Government department.
4. The petitioner further contends that in response to the aforesaid communication, the petitioner was personally present at the time of conducting the draw of lots but the private respondent was absent. Even thereafter the private respondent has been held to be the successful bidder.

5. The petitioner also submits that as the private respondent was not present at the time of draw of lots, accordingly, his candidature ought to have been rejected by IOCL.
6. Learned counsel representing IOCL relies upon the brochure for selection of dealer for regular and rural retail outlets for the month of June 2023 annexed to the affidavit-in-opposition. It has been pointed out therefrom that in case of more than one eligible applicant, the selection of retail outlet dealer for an advertised location is to be done through computerized draw of lots/bid opening from the eligible applicants for that location.
7. It has also been submitted on behalf of IOCL that there is no penal clause attached therein. Presence of the eligible applicants is desirable but not mandatory. There is also no provision to cancel the candidature in case an applicant is not personally present at the time of holding the draw of lots.
8. It has further been submitted that there were three eligible applicants out of them two were personally present. The draw was held online and there was no requirement of personal presence of the applicants. The bidder who was not present at the time of draw has been selected as the successful bidder. According to IOCL, there is no mala fide or malicious intention alleged in the writ petition. Prayer has been made for dismissal of the writ petition.
9. Upon hearing the respective parties and on perusal of the materials on record, it appears that the communication made to the petitioner on December 3, 2023, at first blush, seems to be a mandatory direction for appearance of the

applicants at the time of conducting the draw of lots; but upon perusal of the brochure, it appears that there is no provision for taking any penal action in the event an applicant fails to appear in the draw of lots.

10. Without a specific provision in the brochure conducting the selection process mandating personal appearance at the time of holding the draw of lots, the presence of an applicant cannot be held to be a mandatory one. The candidature of the applicant cannot be cancelled on the grounds of not remaining personally present at the time of draw of lots. Moreover, the petitioner has also not alleged any mala fide on the part of the authority in selecting the successful bidder who was not personally present at the time of conducting the draw.
11. In view of the above, the action of the respondent authority cannot be faulted. No relief can be granted to the petitioner in the instant writ petition.
12. The writ petition thus fails and is hereby dismissed.
13. All parties are to act on the server copy of this order duly downloaded from the official website of this court.
14. Certified copy of this order, if applied for, shall be made available to the parties.

[Amrita Sinha, J]

