

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

247

CWP-2426-2024 (O&M)
Date of Decision: 05.03.2024

Surender Singh alias Surendra Singh

...Petitioner

Versus

Hindustan Petroleum Corporation Limited and others ...Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present:- Mr. Raman Chawla, Advocate for the petitioner
 Mr. Ashish Kapoor, Advocate for the respondents
 Mr. Raman Sharma, Addl. A.G., Haryana

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of communication dated 16.01.2024 (Annexure P-9) whereby his candidature for allotment of retail outlet has been rejected.
2. The petitioner, pursuant to an advertisement, applied for the allotment of retail outlet. The petitioner belongs to Scheduled Caste Category and he applied for the site which was meant for SC (PH) Category candidates. The petitioner applied on the basis of lease deed executed with one owner of the land though there are six owners of the land. The petitioner got NOC from other owners. The respondent-corporation selected the petitioner in draw of lots, however, his candidature has been rejected vide communication dated

16.01.2024 (Annexure P-9). In the said communication, the respondent-corporation has informed that land offered is insufficient.

3. Learned counsel for the petitioner *inter alia* contends that petitioner in his application for allotment of retail outlet had disclosed area of offered land 1225 Sq. Meter with khewat number and khasra number. Inadvertently, only one khasra number was mentioned, however, correct area was disclosed. The petitioner had filed lease deed along with application which was disclosing correct area as well as ownership of the land. There is only one owner of the land in question, thus, there was no need to seek consent of land owners.

4. *Per contra*, learned counsel for the respondent-corporation submits that as per terms and conditions of brochure, the petitioner was duty bound to disclose all khasra numbers and he cannot take excuse of his mistakes. He further submits that there are more than one owners of the offered land, thus, lease deed itself is in violation of conditions of brochure.

5. There was doubt with respect to number of owners of the offered land, thus, this Court vide order dated 22.02.2024 requested counsel for State of Haryana to get report from jurisdictional Revenue Officer disclosing whether the land offered by the petitioner was partitioned or not.

6. Mr. Raman Sharma, Addl. A.G, Haryana has filed communication dated 04.03.2024 of Naib Tehsildar disclosing that land in question is not a partitioned land. Communication dated 04.03.2024 is taken on record as Annexure 'X' and Registry is directed to tag the same at an appropriate place.

7. Concededly, the petitioner applied under Group-1 and he offered a leased land. Clause 4 of the brochure deals with eligibility criteria for individual applicants. The relevant extracts of Clause 4(vi)(a) are reproduced as below:-

“4. ELIGIBILITY CRITERIA FOR INDIVIDUAL APPLICANTS-PROPRIETORSHIP/PARTNERSHIP

(i) to (v)

XXXX XXXX XXXX

(vi) Land (Applicable to all categories):

XXXX XXXX XXXX

The other conditions with respect to offering of land are 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. If the offered land is on Long-term lease and there are multiple owners, then lease deed should be executed by all co-owners of the offered plot. In case lease deed is not executed by all co-owners; such lease deed shall be treated as invalid.”

8. From the perusal of above quoted Clause, it is quite evident that in case of multiple owners of land, lease deed should be executed by all the co-owners of the offered land. The petitioner offered a piece of land which was owned by six co-owners. The lease deed has been executed by one co-owner and other co-owners have given their consent by way of affidavits. The procedure adopted by petitioner is not strictly in accordance with the brochure. The respondent has shifted the petitioner from Group-1 to Group-3 and he would be considered along with other candidates in Group-3, if no one is selected in Group-1.

9. The petitioner has applied under SC (PH) Category and he had offered leased land. The lease deed executed by the petitioner is not in consonance with conditions of the brochure, however, there is substantial compliance and the petitioner is able to get NOC of other owners as well as he is ready to offer alternative land. Considering the terms and conditions of the brochure, this Court cannot ask the respondent-corporation to accept lease deed as such.

10. In view of above discussions and findings, the present petition is disposed of with a request to respondent-corporation to re-consider case of the petitioner, if permissible by terms and conditions of the brochure.

11. Pending application(s), if any, shall also stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

05.03.2024
Mohit Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No