

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**2024:PHHC:038845
CWP No.6040 of 2024
Date of Decision:19.03.2024**

Mithlesh

....Petitioner

VS.

Indian Oil Corporation Limited and another

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Sandeep Yadav, Advocate
for the petitioner

Mr. Ashish Kapoor, Advocate
for the respondents

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 31.01.2024 (Annexure P-7) whereby candidature of the petitioner has been shifted from Group 1 to Group 3 on the ground that lease deed is not in her favour.

2. The petitioner pursuant to advertisement dated 25.11.2018, vide application dated 14.12.2018 applied for Retail Outlet at Sector 10, IMT, Manesar, Gurgaon District Gurugram under OBC category. She applied on the basis of sub-lease of 29 years. The respondents in the draw of lots declared her successful. She submitted requisite documents, however, vide communication dated 31.01.2024, the respondents have shifted her to

Group 3.

3. Mr. Sandeep Yadav, Advocate, submits that as per Brochure, the petitioner was required to have lease of 19 years and 11 months and she, concededly, has sub-lease of 29 years, thus, respondents have wrongly rejected her candidature under Group-1 and transposed to Group-3.

4. Per contra, Mr. Ashish Kapoor, Advocate, submits that IOCL recognises lease and not sub-lease. The existence of sub-lease depends upon will of owner of the land as well as previous lessee.

5. I have heard the arguments of counsel for the parties and perused the record with their able assistance.

6. The matter relates to interpretation of different clauses of the advertisement advertizing to land. As per Brochure, there are three Groups i.e. Group 1, 2 and 3. A candidate falls under Group-1 who is having suitable piece of land either by way of ownership or long term lease for a period of 19 years and 11 months. The lease should be in favour of the applicant. The relevant extracts of Clause (v) of the Brochure are reproduced as under:-

(v) Land (Applicable to all categories):

xxx

xxx

xxx

c) For Dealer owned sites (“B”/ “D C” 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 19 years and 11 months (as advertised by respective oil company), before issuance of LOA as per the conditions of LOI.

d) The applicant(s) under Group-1 should have documents to establish ownership of land offered for the Dealership **as on date of application**, such as:-

- Khasra/Khatauni or any equivalent revenue document or certificate from revenue official confirming status of the ownership of the land
- Registered Sale deed/Registered Gift deed.
- Registered Lease deed for a minimum period of 19 years and 11 months (as advertised by respective oil company).
- Any other type of ownership/transfer deed document.
- Lease agreement or firm allotment letter issued by Government/Semi Government bodies.

xxx

xxx

xxx

Note 1:

a. “Own’ means having ownership by way of Registered Sale deed, Registered Gift deed, etc. or title of the property or registered long lease (as per individual OMC norms) in the name of applicant/family member/s as defined in 4(v)-e above.”

7. The petitioner concededly is a sub-lessee of offered land. The lease deed is registered in favour of lessor of the petitioner. From the terms and conditions of the Brochure, it cannot be inferred that registered long term lease includes sub-lease. This Court cannot make addition or deletion in the terms and conditions of the Brochure. In the absence of permission to offer sub-lease, this Court cannot add expression ‘sub-lease’ in the expression ‘registered long term lease’.

8. In the wake of above discussion and findings, the instant petition deserves to be dismissed and accordingly dismissed.

19.03.2024
paramjit

(JAGMOHAN BANSAL)
JUDGE

Whether speaking/reasoned:	Yes	
Whether reportable:		No