

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

237

LPA-386-2020 (O&M)
Date of decision: 15.02.2024

MUBARIK HUSSAIN

...Appellant

VERSUS

UNION OF INDIA AND ANOTHER

...Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Pawan Kumar Mutneja, Senior Advocate with
Mr. Viranjeet Singh Mahal, Advocate,
Ms. Suverna Mutneja, Advocate and
Mr. Rajesh K. Kataria, Advocate
for the appellant.

Mr.Ravi Sodhi, Senior Panel Counsel
for respondent No.1-Union of India.

Mr. Mukesh Kumar, applicant in person
(in CM-1591-LPA-2021)

DEEPAK SIBAL, J.(ORAL)

(1) The present intra Court appeal arises out of judgment dated 17.02.2020 by a learned Single Judge of this Court dismissing the appellant's writ petition filed by him seeking therein quashing of order dated 30.04.2019 passed by Bharat Petroleum Corporation Limited (for short-BPCL) declaring the appellant ineligible for consideration of his candidature for the grant of a retail outlet dealership on National Highway

No.248-A connecting Gurugram to Alwar.

(2) Through an advertisement dated 25.11.2018 BPCL invited applications for the allotment of several retail outlet dealerships which included a retail outlet on National Highway No.248-A connecting Gurugram to Alwar. The appellant made an application for consideration of his candidature for allotment of the said retail outlet. In his application, he declared that on the basis of mutation dated 18.12.2018, he was the lessee of land comprised in Killa No.64//16 in village Aagon, district Nuh and that the said land had the required frontage of 35 meters. Relying on the information supplied by the appellant, he was considered in the draw of lots conducted on 01.02.2019 and declared successful. He was then asked to make the requisite deposit, which he did. On physical verification of the information supplied by the appellant, by the Land Evaluation Committee (for short-the Committee) of the BPCL which was conducted on 26.02.2019, it was found that the frontage of the land offered by the appellant was only 26.82 meters and not the required 35 meters. Through a communication dated 14.03.2019, this fact was brought to the appellant's notice to which he raised a dispute. The Committee again visited the site on 22.04.2019 and reiterated its earlier findings. The appellant refused to sign the proceedings of the Committee. A formal letter dated 30.04.2019 was then addressed to the appellant declaring him ineligible. The reasons to arrive at such conclusion were also supplied. The letter of the BPCL dated 30.04.2019 was petitioned against before this Court by the appellant. Such challenge was considered and rejected by a learned Single Judge of this Court after he concluded that on the last date of application, the appellant was not lessee of land having the required frontage of 35 meters. The

judgment of the learned Single Judge is the subject matter of challenge through the present intra Court appeal.

(3) Learned Senior counsel for the appellant submitted that the last date for submission of the application was 23.12.2018; though in the application form the appellant had mentioned only about the land covered under the lease deed dated 18.12.2018 in Rectangle/Khasra No.64//16, he had on 20.12.2018 executed another fresh lease deed for land in Rectangle No.65 (hereinafter referred to as the 2nd lease deed); the 2nd lease deed was duly handed over by the appellant to the officials of the BPCL; both the afore lease deeds having been executed prior to the last date for making the application were required to be considered; the 2nd lease deed could not have been discarded only because it was registered on 13.02.2019 and that if both the aforesaid lease deeds had been considered by the BPCL, the appellant, before the cut off date, was lessee and in possession of land which had the required frontage of 35 meters and thus was fully eligible.

(4) Learned counsel appearing for BPCL sought to justify not only the action of his client but also the impugned judgment by submitting that in the appellant's application dated 23.12.2018 he had made a declaration that he was lessee of land which had the required frontage of 35 meters; on verification the appellant's afore declaration was found to be false; as an afterthought the appellant set up the lease deed dated 20.12.2018, which lease deed was registered on 13.02.2019 and that since by the last date to apply, the appellant did not fulfil the required eligibility criteria, his candidature was rightly rejected.

(5) Learned counsel for the parties have been heard and with their able assistance, the record of the case has also been perused.

(6) It is not disputed that for the consideration of the candidature of an applicant for the allotment of the retail outlet in question, he was required to own or be a lessee of land having a frontage of 35 meters; in his application dated 23.12.2018, the appellant had declared that he was lessee of land with frontage of 35 meters and that such declaration had been made by the appellant on the basis of a lease deed dated 18.12.2018 pertaining to land situated in Rectangle/Khasra No. 64//16 in village Aagon, district Nuh.

(7) Learned Senior counsel appearing for the appellant also does not deny that the land which is the subject matter of the lease deed dated 18.12.2018 and is situated in Rectangle/Khasra No. 64//16 in village Aagon, district Nuh does not have the required frontage of 35 meters.

(8) Thus, in his application dated 23.12.2018, the appellant had given a false declaration that the land comprised in Rectangle/Khasra No.64//16 in village Aagon of which the appellant was a lessee through lease deed dated 18.12.2018 had the required frontage of 35 meters. That being to, in terms of the brochure, on account of having given a false declaration in his application, the appellant's candidature deserved outright rejection.

(9) The appellant's reliance on the 2nd lease deed dated 20.12.2018 is misconceived as the same finds no reference in the appellant's application form. Even otherwise, had the 2nd lease deed been in existence on 20.12.2018, the same would have found mention in the appellant's application form dated 23.12.2018 especially when the 2nd lease deed was the only thing which stood between the appellant and his eligibility. The other reason for us to discard the 2nd lease deed is that the same was suspiciously registered on 13.02.2019 i.e. 08 days after the letter dated

05.02.2019 had been written by the BPCL to the appellant requiring him to furnish proof of the declarations made by him in his application form.

(10) In light of the above, the learned Single Judge is found to have committed no error, in fact and law.

(11) Dismissed.

(12) All pending miscellaneous application(s) also stand disposed of.

(DEEPAK SIBAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

February 15, 2024
nisha-II

<i>Whether reasoned/speaking?</i>	<i>Yes/No</i>
<i>Whether reportable?</i>	<i>Yes/No</i>