

204 (4)

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

- 1)

CWP-9740-2021
Date of decision : 05.02.2024
- DEEPIKA

...Petitioner
- Versus
- UNION OF INDIA AND OTHERS

....Respondents
- 2)

CWP-4567-2021
- DEEPIKA

.....Petitioner
- Versus
- UNION OF INDIA AND OTHERS

....Respondents
- 3)

CWP-3023-2021
- DEEPIKA

.....Petitioner
- Versus
- BHARAT PETROLEUM CORPORATION LTD.(BPCL)

.....Respondent
- 4)

CWP-7273-2021
- DEEPIKA

.....Petitioner
- Versus
- UNION OF INDIA AND OTHERS

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. Omkar Chauhan, Advocate and
 Mr. Ranbir Singh, Advocate
 for the petitioner.

 Mr. N.K. Vashisht, Senior Panel Counsel for
 Union of India-respondent No.1.
 for respondent.

Mr. Ashish Kapoor, Advocate for
respondents No.2 and 3.

Mr. Raman Sharma, Advocate for BPCL.

JAGMOHAN BANSAL, J. (ORAL)

1. By this common order, CWP-9740-2021, CWP-4567-2021, CWP-3023-2021 and CWP-7273-2021 are disposed of as issue involved in all the petitions is common. For the sake of convenience, the facts are borrowed from CWP-9740-2021.

2. The petitioner through instant petition under Articles 226/227 of Constitution of India is seeking setting aside the order dated 08.12.2018 (Annexure P-6) and Final Selection List dated 07.12.2018 (Annexure P-5) whereby the candidature of the petitioner has been rejected.

3. The petitioner pursuant to an advertisement dated 20.11.2013 applied for distributorship of the LPG. The petitioner applied for different locations by way of different applications. The petitioner was selected in the draw of lots, however, her candidature has been rejected vide the communication dated 08.12.2018 (Annexure P-6) on the ground that the land offered is leased to various persons and it is in violation of conditions of the Brochure. The relevant extracts of the communication dated 08.12.2018 read as under:-

“Please refer to your application (serial no. DEL/LAL/KARNAL (OGP)/08 on the captioned subject. As per the MOPNG letter dated 25.02.2016, for locations which are due for draw/redraw scrutiny of application forms with respect to ownership of land has to be done in accordance with guidelines of March 2015. In the said

guldelines it is clearly stipulated that the same piece of land for godown/show room cannot be offered by more than one applicant for a particular location.

We regret to Inform you that your candidature has not been found to be eligible for LPG distributorship due to following:-

1- LAND FOR GODOWN: khasra No. 2842,2845,13370/2850,13372/2850,251,1,11 at Karnal owned by Pinkl.

Land leased with common doc. No. 7520 dt.09.12.2013 leased to Kanwl Singh, Yogesh Kumar Mallk, Deepika & Ajay Kumar.

2- LAND FOR SHOW ROOM:-Land falls at vill. Kallash, Karnal owned by Sahbboo Devi W/O Jagdish Singh. Leased site, common lease doc. No.7521 dt. 09.12.2013 leased to Sunil Kumar and Yogesh Kumar Malik. The same is in breach of selection guideline of March 2015 in all pending cases. Accordingly your candidature is rejected herewith.”

4. Learned counsel for the petitioner submits that lessor had executed lease deed in favour of more than one persons, however, only one of them had applied, thus, there was no violation of terms and conditions of the Brochure as contemplated in the 2015 Guidelines.

5. Per contra, learned counsel for respondents submits that it is factually incorrect that out of different lessees only one i.e. petitioner had applied for the distributorship. The lessor executed lease deed with respect to same piece of land with 10 persons and most of them applied for the distributorship. This practice was adopted by petitioner and her associates in respect of different locations. The object of the petitioner was to make sure allotment by way of filing multiple applications with respect to the same land.

6. I have heard arguments of learned counsel for the parties and perused the record.

7. The categoric stand of the respondent is that the petitioner had entered into lease deed with the owner of the land who had executed lease deed with 10 persons and most of them had applied for the same location and on the basis of same piece of land. The lease deed was in favour of 10 persons and there was no specific dimension of the land, thus, there was violation of Clause 6.1 (vii) & (viii) of the Brochure.

8. The petitioner was supposed to have plot of land of minimum dimension of 25m x 30m for construction of godown. The petitioner was further supposed to have showroom of specific dimensions. The petitioner was not having land of specific dimension, thus, lease deed itself was faulty and could not be considered for allotment of LPG distributorship. The relevant extracts of the Brochure are reproduced as under:-

“(vii) Should own as on the last date for submission of application as specified in the advertisement or corrigendum (if any):

a plot of land of minimum dimensions 25 M x 30 M (within 15 km from municipal/town/village limits of the location offered in the same State) for construction of LPG Godown for storage of 8000 Kg of LPG in cylinders. The plot of land for construction of godown not meeting the minimum dimensions of 25 M x 30 M will not be considered.

Or

a ready LPG cylinder storage godown (within 15 km from municipal/town/village limits of the location offered in the same State) of 8000 Kg capacity.

In case there are any state specific requirements/norms applicable for construction of the LPG Godown, then the

same will be applicable for the respective Regular Distributorship locations and revised minimum dimensions of plot of land will be required as specified in the Advertisement of that respective State.

The plot of land or ready LPG cylinder storage godown should be freely accessible through all weather motorable approach road (public road or private road connecting road connecting to the public road). In case of private road connecting to the public road, the same should belong to the applicant/member of Family Unit (as per the multiple dealership/distributorship norm of eligibility criteria) as per the ownership criteria defined below. In case of ownership/co-ownership by family member(s) in respect of such private road, consent letter from respective family member(s) will be required.

The land should also be plain, in one contiguous plot, free from live overhead power transmission or telephone lines. Canals/Drainage/Nallahs should not be passing through the plot. The land for construction of LPG godown should also meet the norms of various statutory bodies such as PWD/Highway authorities/ Town and Country Planning Department etc.

In case an applicant has more than one suitable plot for construction of godown for storage of minimum 8000 Kg of LPG in cylinders or ready LPG cylinder storage godown as on the last date for submission of application as specified in the advertisement or corrigendum (if any), the details of the same can also be provided in the application.

(viii) Own a suitable shop of minimum size 3 metres by 4.5 metre in dimension or a plot of land for construction of showroom of minimum size 3 metres by 4.5 metre as on the last date for submission of application as specified in the advertisement or corrigendum (if any) at the advertised location or locality mentioned in the advertisement. It

should be easily accessible to general public through a suitable approach road.

In case an applicant has more than one shop of minimum size 3 metre by 4.5 metre in dimension or a plot of land for construction of showroom of minimum size 3 metre by 4.5 metre as on the last date for submission of application as specified in the advertisement or corrigendum (if any) at the advertised location or locality as specified in the advertisement, the details of the same can also be provided in the application.”

9. The question of allotment of LPG distributorship where the same piece of land was leased to different persons who applied for distributorship has been considered by a Division Bench of Allahabad High Court in **“Chandra Bhoosan Vs. Bharat Petroleum Corporation Limited” Writ-C No.29682 of 2021.**

The Court has upheld rejection of candidature on the ground that the same piece of land was leased to different persons who applied for the distributorship. The relevant extracts of the judgement read as under:-

“Considering the above facts, having perused the explanation given by the petitioner it was opined by the Corporation that same piece of land has been offered by three applicants and two lease deeds executed by Smt. Neelam (original owner) in favour of the petitioner herein and another applicant Sri Vijay Ram Singh did not have description of land leased out, to demarcate the portions given to them on lease.

The candidature of Smt. Neelam was also cancelled on the ground that she has given incorrect details of her land. It was, thus, opined that the frontage area of three portions of Khasra plot no.424 leased out to the petitioner and another applicant Sri Vijay Ram Singh and owned by Smt Neelam is

overlapping and the deed for rectification executed after two years of submission of application clearly indicates collusion between three applicants namely the petitioner, Smt Neelam and the applicant Vijay Ram Singh. It was also opined that the third applicant namely Vijay Ram Singh could not have been offered the land in question namely Khasra no.424, having frontage of his land being 3.5 metres only.

This finding of fact returned by the Corporation in the order impugned could not be challenged by bringing any plausible explanation on record. The demarcation exercise conducted under the order passed by the District Magistrate in November, 2020 would not rectify the situation, in as much as, in the said exercise the frontage of plot leased to Vijay Ram (third applicant) has been shown to 3.5 metres, whereas while submitting application form, the said third applicant had given the frontage of the offered land as per the lease deed being 35 metres. Further, two lease deeds of the same date ie 24.12.2018 were executed by Smt. Neelam and the description of the land leased to Vijay Ram Singh mentioned therein was absolutely incorrect. The land was leased for the purpose of establishment of the retail outlet by the original owner Smt. Neelam. Two applicants and she herself had applied for award of the dealership. The collusion between the petitioner, an other applicant namely Sri Vijay Ram Singh and the owner Smt Neelam is writ large on the face of the record.”

10. The petitioner in the above noted judgment preferred SLP before the Hon’ble Supreme Court which came to be dismissed vide order dated 08.08.2022.

11. From the perusal of the documents and arguments of both sides, it is quite evident that owner of the land executed lease deed in favour of 10 persons and most of them applied for the distributorship. No

specific piece of land was leased in favour of the petitioner. The same piece of land was leased out to all the lessees and they applied for distributorship. There was no specific demarcation of land for the purpose of godown and showroom. It means all the lessee(s) became lessee for the same piece of land. Had one lessee applied for the distributorship, the petitioner could have a case whereas almost all the lessee(s) applied for the distributorship and there was no demarcation of land, resultantly, the same piece of land was offered by different persons. The act of the petitioner was in clear violation of terms and conditions of the Brochure. Further, case of the petitioner is squarely covered by the judgment of Division Bench of Allahabad High Court in ***Chandra Bhoosan*** (supra).

12. In the wake of above discussion and findings, all the petitions deserve to be dismissed and accordingly dismissed.

05.02.2024
monika/Ali

(JAGMOHAN BANSAL)
JUDGE

Whether speaking/reasoned ? Yes/No
Whether Reportable ? Yes/No