

2024:PHHC:082813-DB



Neutral Citation No.

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(108)

LPA-1438-2024 (O&M)

Decided on: 04.07.2024

Ravinder Kumar

.....Appellant(s)

Versus

Indian Oil Corporation Ltd. & another

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MR.JUSTICE VIKAS BAHL**

Present: Mr.Gaurav Datta, Advocate for the appellant (s).

Mr.Ashish Kapoor, for the respondent-Corporation.

G.S. Sandhawalia, Acting Chief Justice (Oral)

CM-3397-LPA-2024

1. Exemption application is allowed, as prayed for.
2. CM stands disposed of.

LPA-1438-2024 (O&M)

3. Consideration in the present appeal is to the judgment dated 27.05.2024 passed by the Learned Single Judge whereby CWP-12535-2024 had been dismissed.

4. The reasoning which weighed with the Learned Single Judge was that the appellant had furnished documents only on 24.01.2024, as per Appendix-III giving the consent of co-owners, as per the terms of the advertisement dated 28.06.2023. Admittedly the consent of the co-owners was to be taken before the date of application and apparently, the appellant

subsequent consent dated 24.01.2024 (Annexure P-2) was held to be after the prescribed period. Parties being bound by the terms and conditions of the brochure, the Learned Single Judge came to the conclusion that the Court cannot ask the Corporation to act contrary to the instructions of the brochure and thus rejected the argument of the appellant, as such.

5. Counsel for the appellant has vehemently submitted that an opportunity had been given to rectify the mistake and an email had been written on 04.02.2024 whereby before 09.02.2024 rectification was permitted. It is submitted that the necessary consent of the three co-owners was there with him on 05.09.2023, 12.09.2023 and 18.09.2023 respectively well before date of application but since he had already uploaded the subsequent consents on 24.01.2024 (Annexure P-12), the earlier consents were not uploaded and not considered, as such.

6. The appellant was an applicant for allotment of dealership of retail outlets at site “within 5 kms of Jal Ghar Mitthi on SH-5 Behal Jhumpa Road”. As noticed, the appellant had applied and filled up the form on 19.09.2023 (Annexure P-6). As per the form itself, in case of joint land, the following term was applicable whereby the consent of the family co-owners was to be taken:

“That as per the documents available with me/us, my/our offer qualifies for being considered under “GROUP 1” as defined in Clause 4(vi) of the Brochure for retail outlet dealer selection by the Oil Company Indian Oil Corporation Ltd.

Note: In case land belongs to member of Family/Co-owner/Others, before submission of application, notarized affidavit as per Appendix-III should be available with the applicant, which is to be uploaded/submitted as and when asked by Oil Company Indian Oil Corporation Ltd. In case the offered land has multiple

Khasra/Khatauni/Gut/Gatta/Patta/Plot/Survey Nos. etc., complete details of land to be entered in the application.”

7. Similarly, the eligibility as per the brochure (Annexure P-3) provides that in case of land jointly held, the consent letter has to be taken in the form of Appendix-III or Power of Attorney (Registered) and the consent has to be tendered by the concerned third person on or before the date of application. Said clause reads as under:

“1) In case the applicant or family member(s) own the land jointly with third person, the consent letter in the form of an Affidavit (Appendix-III) and/or Power of Attorney (Registered) clearly authorizing the applicant for such use of land from third person is also required. Such consent letter in the form of affidavit (Appendix-III) or Power of Attorney (Registered) should have been tendered by the concerned third person(s) on or before the date of application.”

8. As per Appendix-III, the format was prescribed regarding the no objection by the co-owners. Same reads as under:

“3. That in case he/she M/s. (Name of the Entity) is selected for RO dealership I will either sell/transfer/lease the above mentioned piece of land to Oil Company or to Shri/Smt/Kum/M/s.(name of the Entity)_____for setting of Retail Outlet facilities at the above mentioned location as per the site plan duly signed by me/all co-owners. In case of lease, I further confirm that I have no objection if the subject piece of land leased to Shri/Smt/Kum/M/s.(name of the Entity)_____is further leased/sub-leased to the Oil Company by him/her as per terms of the Oil Company.

That I have no objection if the above mentioned land is used for setting up of Retail Outlet facilities by Shri/Smt/Kum/M/s.(name of the Entity)_____at the above mentioned location”

9. Apparently, the Draw of Lots was held on 05.12.2023 and the appellant on 06.12.2023 was intimated (Annexure P-8) that the appellant was provisionally selected for Retail Outlet dealership. However, the

conditions of the Corporation in this regard. It is thereafter the requisite deposits were asked for online and Appendix-III for offer of land, if applicable was also asked for. The needful was to be done and uploading was to be done by 16.12.2023. The Corporation, on 19.01.2024 sent an intimation for rectification of the documents by 09.02.2024 so that the case could be processed further. Resultantly, the copy of the land documents in support of the ownership was asked for. Similarly, Appendix-III of the co-owners was to be uploaded along with the Jamabandi and the candidature was liable for rejection in case applicant failed to upload the above-stated rectified/correct documents within the stipulated time. It is pertinent to mention that as per the guidelines for selection of dealers for retail outlets in case the date of the affidavit as per Appendix-III was later than the date of the application then the case was one of a non-rectifiable deficiencies as per Clause 23. The relevant portions of the said clause read as under:

“23. LIST OF NON-RECTIFIABLE DEFICIENCIES IN APPLICATIONS

The following deficiencies in the application form for Retail Outlet Dealer Selection are non-rectifiable and such applications will not be considered for further selection process.

xxxx

s) Affidavit Appendix-III is of a date later than the date of application.

No alteration/addition/deletion in the application form will be permitted except affixing of photograph and putting signature on the application form. The rectified or additional documents would be accepted only if they are pertaining to the information provided in the Application form.”

10. Apparently, on 15.03.2024 (Annexure P-14), the Corporation communicated to the appellant that they had not received any response

within the stipulated period and therefore, the candidature was found ineligible and liberty was given to make a representation against the rejection of the said eligibility since rectifiable deficient documents were not uploaded correctly. The appellant approached this Court in CWP-8621-2024 wherein the writ petition was disposed of directing the respondents that since the representation was pending, the same would be decided. In the said representation, decision was taken by the authorities on 10.05.2024 (Annexure P-18) which was the subject matter of challenge before the Learned Single Judge. As per the same, the authorities noticed that the documents uploaded on 04.02.2024 were not of correct format as per the Appendix-III and therefore having not been uploaded due to closure of the submission of rectified documents, the case had been rejected.

11. Counsel for the appellant has thus submitted that he had been representing before 09.02.2024 which was the last date given to him and the uploading of the affidavit dated 24.01.2024 was by mistake. An opportunity had not been given to upload the affidavits dated 05.09.2023, 12.09.2023 and 18.09.2023 giving the consent before the submission of the application and therefore, the appellant has been adversely affected.

12. We have examined the email dated 04.02.2024 where it has been admitted by the appellant that he failed to upload the correct Appendix-III of all co-owners in the format provided by the authorities and that he had the Appendix-III of all the co-owners at the time of the application and that it was due to lack of knowledge that he had uploaded the Appendix-III bearing date 24.01.2024. A perusal of the said communication would go on to show that the earlier date of the affidavits

of the co-owners was never mentioned at any point of time. An opportunity having been given and the appellant having availed it and having uploaded wrong affidavit which was after the cut-off date, lead to the case being rejected and the writ petition being dismissed. The fact remains that the applications had to be filled within a prescribed period and the processing has to be done.

13. Accordingly, we are of the considered opinion that as per the terms of the brochure and the guidelines, the appellant himself was at fault by uploading a wrong document. We fail to understand that once the affidavits of September, 2023 were already in possession of the appellant, what was the reason to take additional affidavits which were dated 24.01.2024 of the same co-owners. In such circumstances, the veracity of the documents which are now sought to be relied upon and which are stated to be attested by the Notary at an earlier point of time, are doubtful. It has also been brought to our notice by the counsel for the respondents that in pursuance of the rejection, re-draw has been done of the site and one Ramesh Kumar has been selected on 23.06.2024.

14. In such circumstances, keeping in view the above facts and the third party rights having arisen, we do not see any scope for interference by way of present appeal and the same is, hereby dismissed. All pending application(s) also stand dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

04.07.2024
Sailesh

(VIKAS BAHL)
JUDGE

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No