

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

CWP-28250-2022 (O&M)
Date of decision: 07.02.2024

ANJU
Vs.
INDIAN OIL CORPORATION AND OTHERS

....PETITIONER
...RESPONDENTS

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Robin Dutt, Advocate
for the petitioner.

Mr. Ashish Kapoor, Advocate
for respondent Nos. 1 to 4.

Mr. Vikas Malik, Advocate
for respondent No. 5.

Mr. B.S. Rana, Senior Advocate with
Mr. Nayandeep, Advocate
for the respondent No. 6.

JAGMOHAN BANSAL, J (ORAL)

1. The petitioner through the instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of letter dated 13.05.2019 (Annexure P-8), 31.05.2019 (Annexure P-9), 01.08.2022 (Annexure P-20) and 27.08.2022 (Annexure P-23) whereby candidature of the petitioner has been rejected.
2. The petitioner pursuant to advertisement dated 24.11.2018 vide application dated 23.12.2018 applied for allotment of retail outlet. The petitioner applied in Group-I and she was declared successful in draw of lots. The Land Evaluation Committee visited offered site and formed an opinion that land is not in conformity with guidelines of NHAI, thus, offered land is not

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suitable. The petitioner was asked to offer alternative land and she offered alternative land. The petitioner on the one hand offered alternative land and on the other hand requested NHAI to clarify factum of suitability and compliance of NHAI guidelines. The NHAI vide communication dated 23.01.2020 intimated the petitioner to forward proposal through Oil Company. The respondent-Corporation with the consent of petitioner shifted her to Group-III. The petitioner could not compete in Group-III and another candidate came to be declared successful.

3. Mr. Robin Dutt, Advocate submits that petitioner had initially offered suitable land and respondents without seeking clarification from NHAI at its own rejected the same. The petitioner was not supposed to offer alternative land but under compelled circumstances alternative land was offered.

4. Per contra, Mr. Ashish Kapoor, Advocate submits that petitioner at her own volition agreed to participate as candidate of Group-III. The petitioner vide letter dated 08.08.2022 asked the Corporation to consider her alternative land and insisted not to seek clarification from NHAI. The alternative land offered by petitioner was not suitable because there is another petrol pump within 1000 meters, thus, permission from NHAI could not be obtained which is mandatory because site advertised was at National Highway.

5. I have heard counsel for the parties and perused the record.

6. The petitioner initially offered land comprised in Khasra No. 224 and the said land was rejected by Land Evaluation Committee of the Corporation. The petitioner was asked to offer alternative land. She not only agreed but also offered alternative land. The alternative land was not found suitable because there was another petrol pump within 1000 meters from the proposed site. The respondents are also of the opinion that alternative land is not within advertised location. The petitioner, at this stage, wants that her first

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offered land should be considered. The petitioner is relying upon communication of NHAI whereby petitioner was intimated that proposal for NOC must come through Oil Company. The NHAI had never issued NOC and petitioner vide letter dated 08.08.2022 asked the respondent to consider alternative and not to insist for NOC from NHAI. The relevant extracts of the letter dated 08.08.2022 read as:

“Second thing which I want to draw your attention that why company doesn't mention the whole procedure on mail which is sending by company i.e. also not in proper serial. I means that why company want an NHAI clarification on rejected land (khasra number 224). I received a mail dated on 13th May 2019 or 31st May 2019 that land is rejected and arrange a alterative suitable and within the period of three months from the date of letter. On that basis I provide alternative suitable land i.e. khasra number 319, 320, 321, 324, 325,326 in stipulated time which was enough space for RO outlet from another RO outlet. Why not the LEC committee did not inspect the land. Sir, I want an explanation of this. Why your company want clarification on rejected land (which is khasra number 224). Why not they inspect alternative suitable land which I provide this is sure a partiality towards me. Because I have an enough space for Retaill outlet from 1000m. During all this process of whole 4 years there is not any HPCL petrol pump in my location can you give me an explanation on this matter.”

7. From the perusal of contents of afore-stated letter, it is evident that petitioner was interested to pursue her alternative offered land and she was not interested to get NOC from NHAI with respect to earlier offered land. The petitioner after losing in the draw of lots in Group-III is trying to take a somersault which is impermissible in law as well as facts.

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8. In view of above discussions and findings, this Court is of the considered opinion that the present petition deserves to be dismissed and accordingly dismissed.
9. Pending miscellaneous application(s), if any, shall also stand disposed of.

07.02.2024
manoj

[JAGMOHAN BANSAL]
JUDGE

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