

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5566 of 2023

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Julee Singh Wife of Devendra Kumar Singh Resident of Village- Ikbalganj,
Nisarpura, Police Station- Rani Talab, District- Patna ... Petitioner

Versus

1. The Chairman, Bharat Petroleum Corporation Limited Bharat Bhawan, 4 and 6 Currimbhoy Road, Ballard Estate, Mumbai- 400001.
 2. The Managing Director, Bharat Petroleum Corporation Limited, Bharat Bhawan, 4 and 6 Currimbhoy Road, Ballard Estate, Mumbai- 400001.
 3. Sales Officer, Bharat Petroleum Corporation Limited, Lok Nayak Jaiprakash Narayan Bhawan, Dak Bunglow More, Patna.
 4. Territory Manager, Retail, Patna Territory Retail, Bharat Petroleum Corporation Limited, P.O.- Pakri, Police Station- Anisabad, Patna, Bihar.
 5. Dhananjay Singh, Son of Shri Mahipal Singh Resident of Village- Ikbalganj, Nisarpura, Police Station- Rani Talab, District- Patna ... Respondents
- =====

Appearance :

For the Petitioner :Mr.Gajendra Kumar Singh, Adv.

For the Corporation :M/s Siddhartha Prasad & Om Prakash Kumar, Advs.

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

13 06-02-2025

Heard the parties.

2. Notice has been issued to the Respondent No. 5, who is the original owner. Though notice has being served on Respondent No. 5, there is no appearance either in person or through his counsel.

3. Having regard to the fact that notice has being validly served, Respondent No. 5 is set ex parte.

4. The present writ petition has been filed for the following relief(s) :

“(i) For issuance of direction to the respondent authorities particularly the Respondent No. Territory Manager, Bharat Petroleum Corporation Limited, Retail, Patna to reconstitute the firm M/s Shubham Petroleum at Patut, Patna which is



High Speed Diesel outlet.

(ii) For issuance of direction to the Territory Manager (Retail) to continue the supply of diesel on the outlet without petitioner. as the giving any same has been stopped information to the petitioner.

(iii) And/or for any other relief or reliefs to which the petitioner may be found entitled course of hearing of this writ application.”

5. Learned counsel appearing for the petitioner has stated that Respondent No. 5 the original licensee, Dhananjay Singh, has made an application to the Respondent-Corporation for including the name of the petitioner herein as one of the proprietors. However, the authority has rejected the said application vide order, dated 15.04.2021 (Annexure 4) stating that the educational qualification of the upcoming proprietor Mrs. Julee Singh is not meeting the minimum requirement as per the reconstitution guidelines. Counsel has stated that the petitioner is a 7th class pass and as per the guidelines of the Corporation the minimum requirement that the candidate is required to have is 10th class pass. Further it is sated that the Corporation has the power to relax the educational qualification of the candidature and has drawn the attention of the Court to Clause 6 of the Institution for Reconstitution of Commissioned Dealership. Learned counsel has



stated that the husband of the petitioner has paid an amount of Rs.9,21,360/- but the authorities are not refunding the same. Further it is stated that an amount of Rs.25,000/- was also paid as reconstitution fee. Counsel has therefore prayed this Hon'ble Court to direct the authorities to consider the application of the original licensee, Dhananjay Singh, afresh or direct the official Respondents to refund the amount paid by the husband of the petitioner.

6. Per contra, the learned counsel appearing on behalf of the Respondent-Corporation has vehemently opposed the very maintainability of the Writ Petition. Learned counsel has stated that the present Writ Petition is liable to be rejected on the sole ground that the petitioner does not have the locus to file present Writ Petition. It is stated that the application was made by Respondent No. 5, i.e., Dhananjay Singh, and not by the petitioner and therefore the petitioner cannot seek any direction from this Hon'ble Court. Further it is also stated that in so far as the refund of the amount alleged to have being paid by the husband of the petitioner is concerned, the petitioner cannot seek any direction from this Court as the amounts has been paid by the husband of the petitioner, Devendra Kumar Singh and not by the petitioner. Counsel for the Respondent-Corporation has therefore prayed this Hon'ble Court to dismiss the present Writ Petition.

7. In order to appreciate the issue in the present Writ Petition



it is necessary to extract the relevant guidelines issued by the Respondent-Corporation for reconstitution of the firm. The relevant Rules reads as follows :

POLICY GUIDELINES FOR RECONSTITUTION OF RETAIL OUTLET /SKO-LDO DEALERSHIPS

Relaxation with regard to age and minimum qualification of incoming proprietor/partner(s) can be considered in following cases;

a. Relaxation in age can be considered in favour of nominee(s)/legal heir(s)/family member(s) in case of request for reconstitution is arising out of death/incapacitation. The maximum age limit will be relaxed in cases of reconstitution involving induction of partner from within family member(s). The minimum age requirement will be 18 years. In the event of nominee(s)/legal heir(s)/family member(s) being minor (below 18 years of age), the local guardian shall operate the Dealership till nominee(s)/legal heir(s)/family member(s) becomes a major. The local guardian should be a major and should be able to read, write and count.

b. Relaxation on educational qualification can be considered in favour of nominee(s)/legal heir(s)/family member(s) in case of request for reconstitution arising out of death /incapacitation of the proprietor/partner(s). However, the candidate should be able to read, write and count.

In other cases i.e. other than (a) & (b) above, depending upon merit, relaxation on age & educational qualification can be considered and approved.

8. A perusal of the above guidelines reveal that the minimum qualification that a person should have for being considered as one of the proprietors in a reconstituted firm is that he should pass Class 10th but in this particular case the petitioner has by his own admission



passed only 7th class. Though the counsel for the petitioner has tried to impress upon this Hon'ble Court that the respondent authority has the power to relax the Rule, it is to be noted that the relaxation of the educational qualification can be considered in favour of nominee/legal heir/family member in case of request for reconstitution arising out of death/incapacitation of the proprietor/partner. However the candidate should be able to read, write and count. In other cases depending upon merit, relaxation on age and educational qualification can be considered and approved.

9. Having regard to the above, this Court is of the opinion that the ends of justice would be served if the impugned order is set aside and the matter remanded back to the authority concerned for considering the application of the Respondent No. 5 for reconstituting the partnership with the name of the petitioner as expeditiously as possible, preferably within a period of 8 weeks from the date of receipt of a copy of this order.

10. With the above directions, the writ petition is disposed of.

(A. Abhishek Reddy , J)

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