

IN THE HIGH COURT AT CALCUTTA
Constitutional Writ Jurisdiction
Appellate Side

Present: - Hon'ble Mr. Justice Subhendu Samanta.

IN THE MATTER OF

WPA 9631 of 2022

Bapi Haldar

Vs.

Indian Oil Corporation Ltd & Ors

**For the Petitioners : Mr. Prosenjit Mukherjee, Adv.,
Mr Arghya Kamal Das, Adv.**

For the IOCL : Mr. Puspendu Chakraborty, Adv.,

Reserved on : 04.11.2024

Judgment on : 13.01.2025

Subhendu Samanta, J.

1. Indian Oil Corporation published an advertisement inviting applications for appointment of LPG Distributor in the vacancy location at Jhilli, under Murshidabad District. Petitioner has applied for the said vacancy by filing a prescribing application. Petitioner was selected in the draw of tots and IOCL has issued letter of intent (LOI) in favour of the petitioner. It appears for application that petitioner offered plot No. 4255 and 4256 for construction of LPG-Godown- cum showroom. However, it is the case of the petitioner that the petitioner has applied for the license from West Bengal Fire and Emergency Services in respect of three plots. It is the case of the petitioner that he is the owner of the LR plot Nos. 4253,4255,4256 and 4258 of said Mouza. All LR plots and land are adjacent to each other. Petitioner,

could not restricted construction of godown to plot no. 4255 and 4256. LR record of right of LR plot No. 4256 was not available. Thus petitioner had to construct the godown offered to additional plots i.e. 4253 and 4258. It is the further case of the petitioner that during construction of godown only some portion of the plot No. 4258 was covered. No private person was deprived or not raised any dispute regarding the construction of godown over said 04 plots of land. It is the further case of the petitioner that the construction of godown over the additional plots of lands were well aware to the sales officers of the respondent. It is the further case of the petitioner that he duly paid Rs. 1,80,000/- in total for security deposit for commissioning of the LPG Distribution and also cleared Rs. 1,85,000/- as refilling cost. Petitioner says that the Oil Company/Respondent has received the entire amount without any objection. However the petitioner has submitted an application of 15th of January 2021 for using alternate land but the respondent authority has issued a show cause to the petitioner on 17th of December 2021 asking him to provide satisfactory reply. On 14th of March 2022, petitioner communicated the respondent for conversion plot 4255 is underway but the respondent authority has cancelled the LOI on 2nd May 2022.

2. Hence this writ petition.

3. The IOCL contested the writ petition by using affidavits. It is the case of the IOCL that initially petitioner offered the land comprising of LR plot No. 4255 and 4356; thereafter he constructed godown over some additional plots No. 4253 and 4358. The report of the concerned

officers of the IOCL has specifically mentioned that the petitioner has constructed the godown over plot No. 4255, 4356, 4253 and 4358. Before making construction, the petitioner has not obtained any permission or never informed the IOCL. It is the further case of the petitioner that the conduct of the petitioner is “de hors” to the condition laid down in the brochure.

4. It is the further case of the IOCL that letter of intent specifically mentioned some clause wherein it has been specifically noted that the letter of IOCL is merely a letter of intent and it is not to be construed as firm offer.

5. Learned Counsel Mr. Puspendu Chakrabarty appearing on behalf of the IOCL has submitted that through the report of the sales officers of IOCL it has been clearly revealed that construction of godown was made over plot No. 4255. The writ petitioner has failed to get PESO license with regard to 04 Plots, over which the godown has been constructed. It is the further case of the IOCL that the classification of land with regard to Plot no. 4255 was not at all changed but the construction of godown made over the said plot. It is the further case of the IOCL that through email dated 2020 the Oil Company has informed the petitioner that PESO license issued in favour of the petitioner is incorrect.

6. The petitioner has failed to cover classification of Plot No. 4255, but has constructed godwon over the said plot of land. A show cause notice was issued against the petitioner. The petitioner has failed to

give satisfactory reply in respect the show cause notice. Thus the letter of intent was cancelled.

7. Heard the Learned Advocate perused the petition of complaint. From the entire facts of this case it appears that initially petitioner offered plot No.4255 and 4256 for construction of godown. At the time of making construction of godown, petitioner used 02 more plots along with offered plots. It is the admitted fact that the petitioner never informed the IOCL regarding the construction of godown over the additional plots. It is also admitted fact that the Plot No. 4255 has not been converted though, construction has been made over the same plot.

8. Let me consider whether the brochure can allow the petitioner to raise construction over some additional plots beyond offered land. The brochure of unified guidelines for selection of LPG distributors has mentioned the basic facilities required for operation as follows:

BASIC FACILITIES REQUIRED FOR OPERATION OF LPG DISTRIBUTORSHIP

a. The selected candidate will construct or provide a readily constructed LPG godown to store LPG of stipulated capacity and obtain necessary approvals from statutory bodies including Petroleum & Safety Organization (PESO) within the time period mentioned in the LOI. If the land offered by the candidate in the application or alternate land offered by the candidate at the time of Field Verification (FVC) meets all specifications as laid

down in the advertisement on the basis of which LOI has been issued, then the LOI holder can offer an alternate / new land for construction of godown of specified dimensions, in the advertised location, which will be considered on the grounds of enhanced security / safety, better title (owned instead of leased), convenient location, lower operating cost etc. The selected candidate has to ensure that an all weather motor able approach road (public or private road connecting to the public road) of minimum 2.5 metre width is made available to provide access of LPG Cylinder Truck to the offered land for LPG Godown. In case of private road connecting to the Public Road, the same should be either owned/registered lease or having a right of way from the owner(s) of the land. Wherever the State Government stipulates an approach road of wider dimensions the same should be made available by the applicant.

c. An undertaking has to be provided by the selected candidate at the time of acceptance of LOI that the Approach Road as specified will be provided within the time frame mentioned in the LOI. The Approach Road will be verified for its suitability before the issuance of Letter of Appointment. It would be responsibility of the selected candidate to ensure that the LPG cylinder truck is allowed unhindered access at all times through this approach road to the LPG Godown upon commissioning of the LPG distributorship. In the event of failure of selected candidate to make available the approach road, the LOI is liable to be cancelled along with forfeiture of the 10% security deposit.

OMCs will not be held responsible for any investment made by candidate in the construction of the godown without having a proper approach road.

d. For Sheheri Vitrak, Rurban Vitrak and Gramin Vitrak the selected candidate will construct or provide a readily constructed LPG Showroom as per the Standard layout and colour scherne within the time period mentioned in the LOI. The showroom should be easily accessible to general public through a suitable approach road.

e. If the land offered by the candidate in the application or alternate land offered by the candidate at the time of Field Verification (FVC) meets all specifications as laid down in the advertisement on the basis of which LOI has been issued, then subsequently, the LOI holder can offer an alternate / new land for construction of showroom of specified dimensions, in the advertised location, which will be considered on the grounds of enhanced security / safety, better title (owned instead of leased), convenient location, lower operating cost etc.

f. Construction of LPG godown and /or showroom should be commenced only after permission in writing is obtained from Area Manager/territory manager/ regional Manager of the concerned Oil Marketing Company (OMC).

g. For Sheheri Vitrak, Rurban Vitrak and Gramin Vitrak the selected candidate has to develop adequate delivery

infrastructure for Home Delivery of LPG Cylinders to the customers as specified by the OMCs in the LOI. Further, the selected candidate has to procure adequate number of electronic portable weighing scales of required specification for demonstration of correct cylinder weight to the customers as per statutory regulations.

9. It has also mentioned in the brochure that-

It will be the responsibility of the selected candidate to observe and perform the provisions of all rules and regulations, Government or municipal or local or Acts, Laws, Regulations, Bye-Laws as may be enforced from time to time with respect to land for construction of LPG Godown.

In case there is any reference relating to violation of any of the statutory provisions, it will be referred to the concerned authority for examination and for appropriate action.

10. From the above mentioned guidelines of the brochure it appears to me that the petitioner being the selected candidate through the draw of tots, had received the letter of intent. The brochure has provided the candidate, in favour of whom LOI has been issued, at the time of field verification [FVC], may offer alternate plots of land for construction of godown. The candidate, in favour of whom LOI has also been issued, may also apply to use alternate the land after field verification stage.

11. In the present case the petitioner had never informed the authority/respondent regarding the construction of land over the additional plots. Moreover, the petitioner has constructed godown without changing the nature of classification of one plot of land i.e. plot No. 4255. It is true that the issuance of LOI cannot created any right in favour of the petitioner and it is not firm offer.

Petitioner admittedly violated terms of tender; thus, he cannot claim equitable relief.

12. Considering the situation I am of a view that the petitioner has not satisfactorily replied the show case notice issued by the concerned authority on 17.12.2021; the impugned communication, dated 02.05.2022 whereby, LOI issued in favour of the petitioner was cancelled, suffers no legal infirmity. Thus I find no justification to interfere with the impugned communication issued by the respondent authority.

13. Under the above observation, the instant writ petition is dismissed and disposed of as devoid of merit.

14. Parties to act upon the server copy and urgent certified copy of the judgment be received from the concerned Dept. on usual terms and conditions.

(Subhendu Samanta, J.)