

20.5. 2025
item No.2
n.b. & Ali
ct. no. 24

WPA 20147 of 2024

Biswanath Ruidas
Vs.
Union of India & Ors.

Mr. Debyendu Chatterjee,
Mr. Pritam Majunder,
Mr. Mainah Singha Barma,
Mr. Ankita Banerjee,
..... For the Petitioner.

Ms. Saheli Sen,
Mr. S. K. Pathak
..... For the Respondent No.8.

Mr. Biswanath Chatterjee,
Mr. S. K. Pathak,
.....For the Respondent Nos.2-4.

Hindustan Petroleum Corporation Ltd.
(respondent authority) published an advertisement for
appointment of Retail Outlet Dealership in the location
situated within 2 KM of Jorehira High School on Saltora
to Jhantipahari Road (SH-8) in the district of Bankura
under SC category and the nature of the dealership was
regular.

Petitioner, private respondent no.8 and other
persons applied for the said dealership. HPCL has
selected private respondent no.8 and Letter of Intent was
issued in favour of the private respondent no.8 for the
said retail outlet dealership.

It is the case of petitioner that private respondent
has offered a land, which is defective in title. Moreover,
the areas of the offered land do not have specific

dimensions required in the said dealership i.e. 30 mtrs frontage and 30 mtrs depth.

It is firm contention of the petitioner that in spite of such land offered by the private respondent, having disputed title, the concerned authority, without following the procedure established in the brochure has issued Letter of Intent in favour of the private respondent without making thorough inspection and land valuation.

Learned counsel for the petitioner has placed the copy of deed of lease in favour of the private respondent and submits that the persons, who have executed the deed of lease in favour of the persons from whom, the present respondent had received the lease, had no title over the said plot of land.

Learned counsel for the petitioner also placed present Record of Right, which contains the name of the recorded owners of the plot of land and argued that the persons, namely, Mou Mukherjee and Piu Mukherjee had no right, title and interest over the land in question but they have transferred their alleged right of the land in favour of the Goutam Maji and Pintu Majhi, who have transferred their right through lease in favour of the private respondent.

It has also been contended by the learned counsel for the petitioner, none of the lease deeds had mentioned the particular area of the land having frontage and depth, as required in the brochure.

Mr. Chatterjee, learned counsel appearing on behalf of the respondent nos.2 to 4 filed affidavit-in-opposition against the writ petition and contended that vide Deed of Lease being, Deed No.00856/2018 Mamta Chatterjee, Joydip chatterjee, Mou Mukherjee, Piu Mukherjee transferred the land in favour of the Gautam Maji and Pintu Mukherjee; in respect of 22 decimal vide one sale deed being Deed No.02127/2022, Debdas Mukherjee, Argun Mukherjee, Amiya Prasad Mukherjee, Barun Mukherjee, Prasanta Mukherjee, Kamana Mukherjee & Swarup Mukherjee transferred their right in respect of 9.5 decimals of land in favour of Vijay Maji and Pintu Mukherjee thereafter vide lease deed no.4993/2023 such Gaoutam Maji, Pintu Mukherjee and Bijoy Maji transferred 31.5 decimal of land in favour of the private respondent no.8.

It is further contended by the respondent authority that the respondent no.8 has fully satisfied the land criterion as per brochure and notifications. The land offered by respondent no.8 having frontage of 30 mtrs and depth of 30 mtrs, which is situated within 2 Km of Jorehira High School on Saltora to Jhantipahari Raod (NH-08) under the District of Bankura. The suitability of the land offered by private respondent no.8 was assessed by the land evaluation Committee and officials of HPCL, the other parameters of the land was

properly inspected and evaluated by the committee itself.

Mr. Chatterjee further submits after thorough deliberation, it appears that land offered by the private respondent is suitable for construction of retail outlet, accordingly Letter of Intent was issued.

Private respondent no.8 also used affidavit-in-opposition against the writ petition wherein she submits the Letter of Intent was issued in her favour but due to pendency of the instant writ petition, Gram Panchayat had not issued NOC for running the Petrol Pump business.

It is the further contention of the private respondent that he has fulfilled all the criterion as laid down in the advertisement as well as in the brochure, the respondent authority after careful consideration of the documents placed by the private respondent, has issued the Letter of Intent.

Having heard for the parties, it initially appears to me that the issue, as raised by the petitioner in the instant writ petition regarding the correctness of title of the private respondent in the land offered by her for construction of the retail outlet. The petitioner has demonstrated that some persons having no right, title over the land has transferred their right in favour of the lessor of the private respondent.

It is further challenged by the petitioner that the concerned Committee of the respondent authority has not clearly or properly inspected the land offered by the private respondent. The affidavit-in-opposition of respondent authority unequivocally stated that the respondent authority concerned has issued the letter of intent in favour of the private respondent after thorough inspection and evaluation of the land offered by the private respondent.

The matters regarding challenge the decision of respondent authority for selection of a candidate through a tender procedure have time and again appeared before this Court as well as before the Hon'ble Supreme Court. There are several decisions of the Hon'ble Supreme Court that how these matters should be dealt with by the High Court. Mr. Chatterjee has placed certain decisions on that principle (i) ***Banshidhar Construction Pvt. Ltd. Vs. Bharat Coking Coal Ltd. & Ors.***, reported in ***(2024) 10 SCC 273*** (ii) ***Agmatel India Ltd. Vs. ResourSYS Telecom and Ors.*** reported in ***(2022) 5 SCC 362***.

In ***Bamsjodjar Construction (supra)*** the Hon'ble Supreme Court after considering the earlier decision of Hon'ble Supreme Court in ***Starling Computers Ltd. Vs. M & Publications Ltd.*** as well as in the case of ***Jagdish Mandal Vs. State of Orissa*** has come to an opinion that:-

“36. It was sought to be submitted by the learned counsel for the respondents relying upon the observations made in **Central Coalfields Ltd. Vs. SLL-SML (JVC)**, that whether a term of NIT is essential or not is a decision taken by the employer which should be respected. However, in the said judgment also it is observed that if the employer has exercised the inherent authority to deviate from the essential term, such deviation has to be made applicable to all the bidders and potential bidders, which was observed in paras 47 and 48 as under: (SCC p.638)

“47. The result of this discussion is that the issue of the acceptance or rejection of a bid or a bidder should be looked at not only from the point of view of the unsuccessful party but also from the point of view of the employer. As held in *Ramana Dayaram Shetty* the terms of NIT cannot be ignored as being redundant or superfluous. They must be given a meaning and the necessary significance. As pointed out in *Tata Cellular* there must be judicial restraint in interfering with administrative action. Ordinarily, the soundness of the decision taken by the employer ought not to be questioned but the decision-making process can certainly be subject to judicial review. The soundness of the decision may be questioned if it is irrational or mala fide or intended to favour someone or a decision that no responsible authority acting reasonably and in accordance with relevant law could have reached as held in *Jagdish Mandal* followed in *Michigan Rubber*.

48. Therefore, whether a term of NIT is essential or not is a decision taken by the employer which should be respected. Even if the term is essential, the employer has the inherent authority to deviate from it provided the deviation is made applicable to all bidders and potential bidders as held in *Ramana Dayaram Shetty*. However, if the term is held by the employer to be ancillary or subsidiary, even that decision should be respected. The lawfulness of that decision can be questioned on very limited grounds, as mentioned in the various decisions discussed above, but the soundness of the decision cannot be questioned, otherwise this Court would be taking over the function of the tender issuing authority, which it cannot.”

In **Agmatel India Pvt. Ltd. (supra)** the Hon’ble Supreme Court also after detailed discussion of its earlier observation in **Galaxy Transport Agency and Montecarlo Ltd. V. NTPC Ltd.** has held that:-

“26. The abovementioned statements of law make it amply clear that the author of the tender document is taken to be the best person to understand and appreciate its requirements; and if its interpretation is manifestly in consonance with the language of the tender document or subserving the purchase of the tender, the Court would prefer to keep restraint. Further to that, the technical evaluation or comparison by the Court is impermissible; and even if the interpretation given to the tender document by the person inviting offers is not as such acceptable to the constitutional court, that, by itself, would not be a reason for interfering with the interpretation given.

Application of relevant principles to the case at hand”.

This Court following the observation of Hon’ble Supreme Court in ***Gopal Naskar Vs. Hindustan Petroleum Corporation Ltd. & Ors. (WPA 4082 of 2025)*** has also observed that the decision of the respondent authority in selecting a candidate under tender cannot be called in question always in a writ jurisdiction of the High Court unless and until patent illegality or manifest arbitrariness is proved.

In the light of the discussion made in above regarding the observation of Hon’ble Supreme Court in different citation it appears to me that the present petitioner has challenged the decision of the respondent authority on the ground that the view adopted by the respondent authority regarding the title of the private respondent in the offered land is not correct.

The authority who floated the tender is the best person to interpret the meaning and purport of the tender document. It has been observed by the Hon'ble Apex Court that Court would prefer to keep restrain in those matters where the tender document has been clarified by the respondent authority.

In the present case, the respondent authority by using affidavit-in-opposition has clarified or shown before this Court that they have categorically inspected the documents placed by the private respondent and it appears to them that she is the suitable candidate. The petitioner may have placed some documents which, according to him, justifiable to challenge the title of the private respondent over the land offered by the private respondent. But the same disputed question of facts or the title cannot be interfered by this writ Court. Moreover, I am of the clear view that the title as challenged by the petitioner in the instant writ petition appears to me not so harsh or illegal or imperative so to shock the conscience of this Court.

The writ Court is not a court of appeal against the decision of respondent authorities. There may have two probable views regarding title of the offered land. The authority has adopted one view. Merely, there being another possible view, that does not mean authority has acted arbitrarily.

Under the above observation, I am of the view that the decision of the concerned authority for selecting the private respondent is appears to be not so arbitrary to interfere.

Under the above observation the instant writ petition appears to me not so meritorious.

Accordingly, the instant writ petition is dismissed and disposed of.

The concerned Gram Panchayat is directed to issue NOC as preferred, in favour of private respondent No. 8, according to law as early as possible.

Learned counsel appearing on behalf of the petitioner submits for an order of stay of the instant order passed by this Court.

Having heard the learned counsel for the petitioner and considering the circumstances, I find no merit to pass an order of stay of the instant order. Accordingly, the order of stay as prayed for by the learned counsel for the petitioner is turned down.

All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Subhendu Samanta, J.)