

D/L- 16
12/02/2025
Ct. No.-24
Aritra

WPA 28790 of 2024

Arif Miah
Vs.
Bharat Petroleum Corporation Ltd. & Ors.

Mr. Raghunath Chakraborty
Mr. Mahaboob Ahamed
Ms. Mohona Das
....for the petitioners

Mr. Puspendu Chakraborty
....for the BPCL

Petitioner applied for grant of Rural Retail Outlet of petrol pump in terms of advertisement issued by the respondent authority through daily newspaper Anandabazar Patrika dated July 18, 2023. Petitioner has made an online application containing details of land he wanted to offer. Vide communication dated December 1, 2023, the respondent authority informed that the petitioner had been selected provisionally in draw of lots for the R.O. Vide one communication dated July 10, 2024 the respondent authority has informed the petitioner the Land Evaluation Committee (LEC) will visit the site offered by the petitioner and the subject location for inspection and petitioner was requested to present personally along with his photo identity card at the offered site on July 20, 2024 along with the relevant land documents.

However, the date of inspection was later cancelled and it was re-fixed on July 25, 2024. The inspection was done at the sited location on July 25, 2024 by the Land Evaluation Committee. Thereafter, through the impugned communication dated November 18, 2024 the respondent authority has communicated as follows:-

“Dear Sir,

1. Please refer to your application received by us as Application form No.BPC16974637149538 on the subject and our letter dated 25-July-2024 informing you about the visit of Land Evaluation Committee for evaluation of your offered land.

2. This is to inform you that the Land Evaluation Committee visited the site offered by you on 25-July-2024 and found the same to be not meeting the required norms as mentioned below: Land Not meeting minimum requirements.

3. In view of the above, we regret to inform you that your candidature has been found ineligible.

Thanking You.”

Being aggrieved by the said communication the instant writ petition is preferred for quashing of the said communication.

It is the contention of the learned counsel for the petitioner that the petitioner is a most suitable candidate who offered the land for construction of

retail outlet of petrol pump. The field verification committee has inspected the site and erroneously came to the opinion that “land not meeting minimum requirement”.

Learned counsel for the petitioner submits that cryptic communication of the respondent authority made the petitioner surprised why his candidature was cancelled, thus he made one representation with the authority on November 26, 2024. His representation was not at all considered, hence, this writ petition has been filed.

It is the contention of the learned counsel for the petitioner that the impugned communication is not a non-speaking order wherefrom the reason for cancellation of the candidature cannot be ascertained. He further submits that the act and action of the competent authority is beyond doubt. They have straightway negated the prayer of the petitioner who is a most suitable candidate having sufficient measurement of land for establishment of retail outlet of petrol pump in the advertise location. It is the case of the petitioner that the impugned communication may be set aside and the petitioner may be allowed to continue to the procedure.

In support of his contention, learned counsel for the petitioner has cited a decision of Hon'ble Supreme Court reported in **Kumari Shrilekha**

Vidyarthi & Ors. vs. State of U.P. & Ors., (1991) 1 SCC 212, wherein Hon'ble Supreme Court has discussed about notion of arbitrary action of State authority.

“36. The meaning and true import or arbitrariness is more easily visualized than precisely stated or defined. The question, whether an impugned act is arbitrary or not, is ultimately to be answered on the facts and in the circumstances of a given case. An obvious test to apply is to see whether there is any discernible principle emerging from the impugned act and if so, does it satisfy the test of reasonableness. Where a mode is prescribed for doing an act and there is no impediment in following that procedure, performance of the act otherwise and in a manner which does not disclose any discernible principle which is reasonable, may itself attract the vice of arbitrariness. Every State action must be informed by reason and it follows that an act uninformed by reason, is arbitrary. Rule of law contemplates governance by laws and not by humour, whims or caprices of the men to whom the governance is entrusted for the time being. It is trite that ‘be you ever so high, the laws are above you’. This is what men in power must remember, always.”

Learned counsel appearing on behalf of the respondent authority submits that from the application of the petitioner it would be revealed that that petitioner has offered two plots of land by citing as plot No.1 and plot No.2. According to the brochure, when a candidate offered more than one

plots, the authority concern has put a query to the petitioner which plot he intends to offer. On such query the petitioner himself vide letter dated 15/07/2024 has informed that though he had offered two plots of land but he intends to offer the plot No.1 for evaluation regarding opening of petrol pump. On the request of the petitioner, the Land Evaluation Committee has visited the site in presence of the petitioner and came to the opinion that the offered plot No.1 is not meeting the required criteria. The plot No.2 also not meeting the required criteria. Accordingly, they have issued the impugned memorandum containing the term that “land not meeting minimum requirements”.

Learned counsel for the respondent authority submits that the act and action of the authority is according to the guideline laid down in the brochure itself they have followed the procedure. According to the request of the petitioner, they have only inspected plot No.1 for the purpose of establishing retail outlet of petrol pump. He further submits that the application itself stated the two plots thus the authority concern acted accordingly. Learned counsel further submits that if there is any complaint against respondent authority, the petitioner may approach Grievance Redressal System for required redressal.

It is the further contention of the respondent authority that the instant writ petition has no merit to entertain.

Having heard the learned counsel for the parties it appears to me that the petitioner has offered through his application, two plots of land being plot No.1 and plot No.2. Admittedly, plot No.1 has mentioned the Khatian No.3149 [LR Khatian number of the petitioner] and plot No.2 contain Khatian No.854 [LR Khatian of father of petitioner] LR Khatians of a person may include several plot numbers.

However, for purpose of better reasoning it can be ascertained that both the Khatian numbers have mentioned a singular plot, that is, LR Plot No.901. From the report of the Land Evaluation Committee, it appears that the plot No.901 contains several Khatians. The LR porcha which was annexed with the writ petition also shows that LR plot No.901 was included in several Khatians, that is, Khatians of petitioner and other Khatians of his brothers. According to the brochure, the concerned authority has asked the petitioner which plot he intends to use for establishment of retail outlet. He unequivocally has offered only plot No.1 and mentioned that the plot No.1 is located/situated on the left side of the Pransagar to Kumarganj Road.

A site plan (not measure to scale) is appended with a document placed by the learned counsel for the private respondent wherein it appears that offered plot No.1 and offered plot No.2 are contiguous and are of a singular plot of land that LR Plot No.901. The petitioner has not offered the entire plot of land that is LR Plot No.901 but he has particularly offered plot No.1 as appearing in his application. So, admittedly the authority concerned has acted upon the undertaking and request of the petitioner for measurement through Land Evaluation Committee. From the measurement it appears that the area of offered plot No.1 is less than 625 sqmt and offered plot No.2 is also of area less than 625 sqmt. In the application itself though the petitioner has mentioned area of both the offered plots are of 620 sqmt., but during inspection it appears that both the plots are not meeting the required criteria. However, it is true that both the offered plots may jointly meet the required criteria but as the petitioner has offered only plot No.1 so it is not obligatory for the respondent authority to consider both the plots that is plot No.1 (Khatian 3149) and plot No.2 (Khatina 854) for evaluation under the Land Evaluation Committee. On that score it appears to that both plot No.1 and plot No.2 may meet criteria, but as the petitioner has approached the authority with plot No.1 only. On the

above score I find no arbitrariness in the action of the respondent authority.

Though the impugned communication appears to me very cryptic in nature, it has not assigned any particular or detailed reason for making the comment that “candidature has been found ineligible”, but as it appears that the petitioner was all along present at the time of inspection, so, I am of the view that the petitioner must have well aware about the fact. However, it appears that petitioner must have committed some mistake in offering only plot No.1 for FVC, whether such mistake is curable or not, can only be decided by the respondent authority on a prayer of the petitioner. The concerned authority may consider the prayer of the petitioner if it within scope and ambit of the selection brochure. So, at this juncture I think it necessary to pass an order so that the authority concerned may dispose of the representation of the petitioner dated 26/11/2024 with a reasoned order.

The instant writ petition being **WPA 28790 of 2024** is disposed by directing the competent authority to dispose of the representation of the petitioner dated 26/11/2024 within eight weeks from date after giving a reasonable opportunity of being heard to the petitioner including his further representation, if any.

The reasoned order of the authority shall be intimated to the petitioner within two weeks thereafter.

This Court has not gone through the merit of this matter, the authority concerned is at leave to dispose of the representation according to the law without being influenced by any observation made by this Court.

There shall be no order as to costs.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties upon compliance with all requisite formalities.

(Subhendu Samanta, J.)