

2025:PHHC:063131



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**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

**CWP-13418-2025
Date of Decision: 12.05.2025**

Pawan Kumar

..... Petitioner

Versus

Indian Oil Corporation Limited Through Its General Manager (Retail),
Gurugram

..... Respondent

CORAM: HON'BLE MR. JUSTICE HARSH BUNGER

Present: Mr. Harmandeep Singh, Advocate and
Mr. Paramveer Singh, Advocate
for the petitioner.

Mr. Ashish Kapoor, Advocate and
Mr. M.S. Rana, Advocate
for the respondent.

HARSH BUNGER J. (ORAL)

Petition herein is, *inter alia*, for issuance of a writ in the nature of Mandamus for directing the respondent to consider the application of petitioner for allotment of Retail Outlet Dealership, which was rejected on the ground that the petitioner did not submit the proof of ownership of the land.

2. Briefly, the Indian Oil Corporation Limited invited applications for allotment of several Retail Outlet Dealerships across Faridabad,

(Haryana), vide Advertisement dated 28.06.2023, wherein the petitioner had applied for dealership under Group-1 Category for the location from Faridabad Bypass Road to Sant Surdas Metro Station on Chaudhary Charan Singh Marg, Faridabad. While submitting the application, petitioner had offered the land comprised in Rectangle No.58, Killa No.21/1, situated at Village Sihi, Tehsil Ballabhgarh, District Faridabad.

2.1 It transpires that the application of petitioner was rejected by the respondent-Corporation, vide letter dated 14.03.2024 (Annexure P-4), by observing as under:-

“Dear Sir,

- 1. Please refer to your application received by us as Application form No.IOC16956367717642 on the subject.*
- 2. Please also refer to our letter dated 05-Dec-2023 and wherein you were advised to submit initial Security Deposit & the specified documents.*
- 3. We regret to inform you that your candidature has not been found to be eligible for RO dealership on the basis of documents submitted by you, for reasons as detailed below.*

Reason:

** Ownership of the land does not lie with the applicant.*

- 4. In case you have any grievance against the rejection of your candidature as mentioned above, you may make your representation by 24-Mar-2024.”*

3. In the aforementioned circumstances, petitioner has filed the instant writ petition before this Court seeking relief(s), as noticed hereinabove.

4. Mr. Ashish Kapoor, Advocate appears on behalf of the respondent-Corporation, in pursuance of the advance copy of paper book having already been supplied to him, and submits that the land offered by the petitioner is not free from encumbrance and is a subject matter of

litigation as presently, two appeals bearing RSA No.1069 of 2023 and RSA No.1628 of 2023, are pending consideration before this Court. It is further submitted that even as per the latest revenue records, i.e. Jamabandi for the year 2023-24, the land offered by the petitioner is shown under the ownership of Haryana Urban Development Authority, Faridabad.

5. Learned counsel for the petitioner has failed to dislodge the aforesaid submission made by learned counsel for the respondent.

6. In “***Puneet Kumar Singh v. Bharat Petroleum Corporation Ltd.***”, 2020(2) ILR (Allahabad) 448; a Division Bench of Allahabad High Court, while considering a case of rejection of candidature for the allotment of retail outlet dealership of petroleum products, examined the issue as to whether the suitability of the land determined by the Corporation can be questioned and whether the discretion of the Corporation should be judicially reviewed, observed as under:-

“72. So far as the other question regarding the discretion of the Corporation, we are of the view that the Corporation is in the best position to decide which land suits to its business prospects and the discretion exercised in that regard has to be seen only from the view that the corporation would be interested in providing its investment only in safe and secured land. If the Corporation has found that the document pertaining to the land are not absolutely clean in the sense that there exists chances of litigation in future qua the land in which investment is to be made, the Corporation is in best position to understand to take decision as to whether the investment should be made or not over such land. So the suitability of the land lies within the domain and the discretion of the Corporation.

73. The Indian Oil Corporation being a public sector corporation and huge public money being involved in the matter any investment of the public money in a property that

may turn out to be disputed in future would be against the public policy also and, therefore, we are of the opinion that for the purpose of suitability of land the discretion exercised by the Corporation in the normal circumstances be not interfered with unless it is found to be an act absolutely arbitrary hit by Article 14 of the Constitution or for mala fides in exercise of the discretion by the Corporation.

74. An exercise of evaluation and decision making is subject to judicial review in the event an action is vitiated for bias, mala fides and in violation of principles of natural justice. Even evaluation of credentials if vitiated for utter ignorance of laws or by whimsical action, would invite interference but where a document becomes a matter of contentious issue and involves complicated question of facts qua title and needed adjudication by a civil court for its valid declaration as involving valuable rights of parties, Corporation, a third party would be justified in keeping its hand off. Case in hand has the element to invite long drawn civil litigation in future and so if corporation decides to term such land as not suitable, we do not find any fault with the Corporation...”

6.1 Recently, in case of **“Pawan Kumar v. Union of India” [Civil Appeal No. 14689 of 2024, decided on 18.12.2024]**; Hon'ble Apex Court while considering the case pertaining to cancellation of allotment of dealership by Bharat Petroleum Corporation Limited to run a petrol pump in favour of the appellant therein; observed that the court should follow the principle of restraint and the technical evaluation or comparison by the court would be impermissible. Hon'ble Apex Court observed thus:

“22. It would have been altogether a different situation had the Corporation shown outright favour to the appellant in the allotment of dealership. That does not seem to be in the present litigation.

23. What weighed with the High Court was some non-disclosure of information relevant for the purpose of allotment

of dealership. Once the Corporation, a Public Sector Undertaking was convinced with the entire procedure undertaken by the appellant - herein, then there was no good reason for the High Court to disturb the allotment of dealership which was granted way back in the year 2020 at the instance of the respondent no. 5.

24. The BPCL having authored the tender documents, is the best person to understand and appreciate its requirements and interpret its documents. The constitutional courts must defer to this understanding and appreciation of the tender documents, unless there is mala fide or perversity in the understanding or appreciation or in the application of the terms of the tender conditions. It is possible that the owner or employer of a project may give an interpretation to the tender documents that is not acceptable to the constitutional courts but that by itself is not a reason for interfering with the interpretation given.

25. Exercise of power of judicial review would be called for if the approach is arbitrary or mala fide or procedure adopted is meant to favour one. The decision-making process should clearly show that the said maladies are kept at bay. But where a decision is taken that is manifestly in consonance with the language of the tender document or subserves the purpose for which the tender is floated, the court should follow the principle of restraint. Technical evaluation or comparison by the court would be impermissible. The principle that is applied to scan and understand an ordinary instrument relatable to contract in other spheres has to be treated differently than interpreting and appreciating tender documents relating to technical works and projects requiring special skills. The owner should be allowed to carry out the purpose and there has to be allowance of free play in the joints...”

7. The aforesaid judicial pronouncements clearly show that the respondent-Corporation is the best judge to consider the suitability of the land for setting up of Retail Outlet Dealership, as it is the Corporation, who has to invest.

8. Upon considering the case in hand in the light of judicial pronouncements noticed above, I find no merit in the instant writ petition and the same is accordingly dismissed.

9. All pending application(s), if any, shall also stand closed.

12.05.2025

Apurva

**(HARSH BUNGER)
JUDGE**

1. Whether speaking/reasoned : Yes/No

2. Whether reportable : Yes/No