

(2014) 03 AHC CK 0129

In the Allahabad High Court

Case No : Civil Misc. Writ Petition Nos. 3457 and 4490 of 2011

Alka Yadav and Another

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 25-03-2014

Acts Referred:

Citation : (2014) 3 ADJ 446 : (2014) 4 ALJ 557 : (2014) 104 ALR 288

Hon'ble Judges : Vivek Kumar Birla, J;Amreshwar Pratap Sahi, J

Bench : Division Bench

Advocate : Ram Autar Verma, Bharat Singh Pal, Kaushal Yadav, Abhijit Mishra, A.P. Singh and H.C. Singh, Advocate for the Appellant; P. Padia and S.C, Advocate for the Respondent

Final Decision : Allowed

Judgement

1. Heard Sri P.N. Saxena, learned senior counsel for the petitioner in Writ Petition No. 3457 of 2011 and Sri Harish Chandra Singh, learned counsel for the petitioner in Writ Petition No. 4490 of 2011. Both petitions have come up questioning the correctness of the order dated 10.12.2010 passed by the Senior Divisional Retail Sales Manager, Indian Oil Corporation Limited (Marketing Division), Agra whereby the candidature of both the petitioners have been rejected on a complaint on the ground that the land offered by them is not at the location that has been advertised.

2. The panel which was drawn at the time of selection placed the petitioner at serial No. 1 and Smt. Salma Begum the petitioner in the other writ petition at serial No. 2. A complaint was made by Smt. Salma Begum before the Indian Oil Corporation with respect to the land offered by the petitioners alleging that the petitioners do not have the land at the located site besides the road. The complaint has been rejected but both the petitioners have been disqualified.

3. Smt. Salma Begum is also aggrieved as she contends that she being at serial No. 2 was entitled to the dealership as she is eligible and qualified.

4. The prayer made therefore in both the writ petitions is to quash the order dated 10.12.2010. The other order which is sought to be impugned is 14.1.2010 whereby the complaint filed by Smt. Salma Begum, as against the petitioners, has been rejected by the Chief Manager, (Retail Sales-II), Indian Oil Corporation Limited.

5. Counter-affidavits have been filed by Indian Oil Corporation and in paragraph 3 of the counter-affidavit, it has been stated that the impugned order is valid as admittedly the location which was advertised is village Kosama, and the petitioners have been unable to offer the land as such the petitioners were ineligible. The petitioner's counsel contends that this finding is absolutely erroneous and against the record inasmuch as there is only one revenue village by the name of Kosama Musalmeen, and the land of the petitioners is situated besides the road as required in the same revenue village as such the findings in the impugned order, according to the petitioners, is perverse and against the revenue records.

6. When Civil Misc. Writ Petition No. 3457 of 2011 was entertained an interim order was passed on 22.3.2012 directing the authorities to conduct a survey and submit a report in relation to the aforesaid contentious issue relating to the location of the land. The same was conducted and the second supplementary-affidavit dated 21.8.2012 filed by the petitioner brings on record, the reports, the site map and other documents to indicate that plot No. 1534 offered by Smt. Alka Yadav was situated in the same revenue village.

7. Learned counsel for the petitioner submits that not only this, the report of survey which has been prepared and has been filed alongwith said affidavit also indicates that the land offered by the petitioner is right on the crossing of the two roads, one running from Ghiror to Karhal and the other Hazipur to Nera.

8. Learned counsel further submits that in such a situation there was no doubt about the location of the land offered by the petitioner Smt. Alka Yadav which was situate within the same revenue village which stands recorded in the revenue records and is also evident from the recital contained in the sale-deed executed in favour of the petitioner in respect of the said land. This fact is sought to be wrongly reviewed by the Indian Oil Corporation by saying that the land is not situated within the same revenue village.

9. We have perused the records as well as the reports that have been brought through the second supplementary-affidavit as also through the writ petition itself.

10. From a perusal of the impugned order, we find that the claim of the petitioner Smt. Alka Yadav as well as that of Smt. Salama Begum both have been rejected on the ground that the land offered by them falls in village Kosama Musalmeen and, therefore, it does not conform to the location as advertised namely village Kosama.

11. From the documents on record and the survey report, it is evident that there is only one revenue village namely village Kosama Musalmeen as mentioned in the revenue records. There is no separate revenue village known as Kosama. The said village is stated to be one but the same consists of 11 hamlets, including the hamlet of Kosama. This is evident from the Annexure-15 to the writ petition which is a question answer filed by the petitioner from the Tahsildar's office, Manipuri. It is thus clear that village Kosama Musalmeen is a revenue village consisting of several hamlets including the hamlet of Kosama which is mentioned as a hamlet at serial No. 4.

12. Consequently, there is no dispute or confusion about the location as advertised in the advertisement at serial No. 107 mentioned as village Kosama. The finding therefore recorded in the impugned order is perverse and against the weight of evidence on record and hence the impugned order passed by the respondent-authority on 10.12.2010 is legally unsustainable for the reasons given hereinabove. The place Kosama having been advertised, the only survey and enquiry which ought to have been made was as to whether the land which has been offered by the petitioners was situate within the area of Kosama hamlet or not, and whether it was available besides the road or not. In the circumstances, the evidence which has been filed by the petitioners before this Court needs to be re-looked into by Indian Oil Corporation afresh in the light of the observations made hereinabove.

13. Accordingly, the writ petitions are allowed. The order dated 10.12.2010 passed by the Senior Divisional Retail Sales Manager, Indian Oil Corporation Ltd., (Marketing Division) Agra, respondent No. 4 is hereby quashed.

14. The respondent No. 4 is hereby directed to reconsider the candidature of both the petitioners in the light what has been stated above and direct the competent authority to prepare a fresh panel keeping in view the parameters that have been laid down in the brochure at the time of advertisement within a period of three months from today. Subject to the aforesaid observations, the writ petition is allowed.