
(2018) 05 PAT CK 0119

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 22273 Of 2013

Anamika Singh

APPELLANT

Vs

Indian Oil Corporation And Ors

RESPONDENT

Date of Decision : 18-05-2018

Acts Referred:

Citation : (2018) 3 PLJR 926

Hon'ble Judges : Anjana Mishra, J

Bench : Single Bench

Advocate : Shekhar Singh, Anil Kumar Sinha, Amlesh Kumar Verma

Final Decision : Dismissed

Judgement

The present application has been filed for quashing and setting aside the order as contained in letter bearing Ref. No. BAO/187 dated 26.09.2013

issued by the respondent no. 3, whereby and whereunder the candidature of the petitioner for LPG distributorship at location "Munger" District "Munger" under open (W) category has been rejected. The petitioner has further prayed for appointing herself as the LPG distributor for the location "Munger" District "Munger" under open Women category.

The brief facts leading to rise of the present writ application are stated hereunder:-

(i) An advertisement was published on 19.01.2009 (Annexure-9) in Times of India newspaper for appointment of LPG distributors in Bihar under various categories for the locations specified in the said advertisement, by the respondent Indian Oil Corporation as well as Bharat Petroleum Corporation Ltd. (BPCL) and Hindustan Petroleum Corporation Ltd. (HPCL).

(ii) The petitioner finding herself eligible in terms of the advertisement referred

above, submitted duly filed application form for her appointment as

LPG distributors at location "Munger" District "Munger under open (W) category.

(iii) As per the advertisement and terms and conditions mentioned therein as well as in the application form, a land for construction of show-room

having dimension 3 Mtr. X 4 Mtr. was required which could be either owned or leased. The petitioner got executed a deed of lease on 19.02.2009

(Annexure-2) through which one Raj Kumar Yadav leased out a land having a room constructed thereupon situated at Mohalla Shadipur, P.S.

Kotwali, District "Munger bearing Khesra No. 593, in favour of the petitioner for the purpose of show room.

(iv) Subsequently, it was realized that in the aforesaid lease deed, due to bona fide mistake, the Jamabandi number of the land was mentioned wrongly

as 81, which should be 91 . In order to rectify the same Sri Raj Kumar Yadav executed a deed of amendment/rectification on 01.04.2010 (Annexure-

3) mentioning the correct Jamabandi number of the land which is 91.

(v) Vide letter dated 10.08.2010 (Annexure- 4) issued by the respondent no. 3, the petitioner was called for to appear in interview scheduled to be held

on 26.08.2010 at 10:00 a.m. By the said letter it was informed that the original documents of all the enclosures as stipulated in the application form and

all the eligibility documents in original as mentioned in advertisement must be produced at the time of interview. It was stipulated therein that non

production of any documents may lead to disqualification.

(vi) At this stage, it is necessary to mention that the deed of lease was not mentioned to be a part of enclosures of the application form submitted

initially.

(vii) In pursuant to the aforesaid call letter dated 10.08.2010, the petitioner appeared in the interview on the scheduled date i.e. 26.08.2010 along with

all the requisite documents including the lease deed dated 19.02.2009 for the show room and the deed of rectification/amendment dated 01.04.2010

referred above. The entire original documents including the aforesaid documents were perused and scrutinized by the concerned authorities at the time

of interview and everything was found to be in order.

(viii) Subsequently, the mark sheet relating to the interview by selection committee for the location "Munger" District "Munger was published

on 28.08.2010 (Annexure-5) and because everything was found to be order, the petitioner's name figured in the said marks sheet at serial no. 1

securing total marks 8.

(ix) Belatedly vide letter dated 21.01.2012 (Annexure-6 under the signature of Santosh Kumar, Deputy Manager (LPG- S) Bhagalpur SA, , it was

intimated to the petitioner to remain present at Munger between 27.01.2012 and 30.01.2012 for verification of records.

(x) During the aforesaid period i.e. 27.01.2012 to 30.01.2012, Mr. Santosh Kumar (LPG-S) , Bhagalpur SA, inspected the land of godown as well as

show room and also verified the records. He was quite satisfied and found everything in order.

(xi) Subsequent to verification by Santosh Kumar, vide letter under Ref. No. BGP/FVC dated 11.02.2012 issued under the signature of Sri Santosh

Kumar some information relating to income as well as nazari map of the land of godown clearly showing the drawing of the other surrounding, root of

truck movement from main road to the subject land as shown during filed verification was asked to be furnished. The petitioner immediately complied

with the said instructions and sent the required information in response to the said letter.

(xii) Thereafter nothing was communicated by the respondent authorities to the petitioner. All of a sudden, the petitioner has been served the letter

bearing Ref. No. BAO/187 dated 26.09.2013 issued by the respondent no. 2 whereby it has been informed that in the application form dated

23.02.2009, the petitioner offered the land for show room which was offered to her vide a register lease deed no. 158 dated 19.02.2009, executed

between petitioner and Sri Raj Kumar Yadav wherein the Jamabandi number of the land was mentioned as 81 whereas during field investigation the

petitioner produced the Jamabandi no. 91. It is further stated that in the said letter that the said anomaly was rectified subsequently by notarized

suddhipatra dated 01.04.2010 i.e. after the date of application and cannot be taken into consideration. By the said letter dated 26.09.2013, (Annexure-

7) in view of the alleged deviation mentioned above during the field investigation, petitioner's candidature for the LPG distributorship has been

rejected.

As such, the petitioner has preferred the present writ application challenging the

order of rejection as being arbitrary and illegal and against the settled principles of law.

Responding to the contentions raised in the writ application, the Indian Oil Corporation has submitted that pursuant to the application for appointment of LPG distributorship in the location Munger, District â?" Munger under open (W) Category, the petitioner as well as other applied on 22.05.2010.

After evaluation of the eligible and non-eligible candidates was completed by L-1 Committee, and the selection for the said location was carried out on

26.08.2010 by L-2 Committee at Begusarai Area Office. The petitioner?s name appeared at Serial No. 2 but after the list was prepared, it was

discovered on field verification that the first women candidate was not eligible and the petitioner?s candidature was also considered. Moreover, at the

time of field verification, it was found that offered land by the petitioner for show room at Shadipur Munger which was on the basis of registered lease

deed number is 158 dated 19.02.2009, the Jamabandi number of the offered land was mentioned as 81 whereas on field verification, the said land was

found to be having Jamabandi number 91. The petitioner then sought to rectify the said anomaly of the offered land by means of a notarized

Sudhipatra dated 01.04.2010.

Learned counsel for the respondent submitted that any rectification, addition and alteration cannot be taken into consideration after the date of

application and thus, the candidature of the applicant/petitioner namely, Anamika Singh was rejected vide letter Reference No. BAO/187 dated

26.09.2013. It was further submitted that any anomaly which was rectified subsequently after the date of application cannot be taken into

consideration by the authorities and therefore, the respondents wholly justified in rejecting the case of the petitioner. It was under such circumstances,

petitioner?s case was not considered.

In this context learned counsel for the Corporation has referred to a Division Bench judgment of this Court reported in 2012 (2) PLJR pg 783 (M/s

Indian Oil Corporation Ltd., Scope Bhawan, Lodhi Road, New Delhi through its Chairman/Chief Managing Director & Anr. Vs. Raj Kumar Jha),

wherein even typographical error has not been entertained.

Paragraph 10 of the aforesaid judgment read as follows:

â??The learned Single Judge ought not to have interfered with the decision of the Corporation which has taken in consonance with the

terms and conditions contained in the advertisement. Besides; may be, in the present case it was a mere typographical error. However, there

might be a case of mischief or misrepresentation also. It is difficult to draw a line where an error ends and a mischief or misrepresentation

begins. The best way to avoid discrimination is strict adherence to the standards mentioned in the advertisementâ??.

Heard learned counsel for the petitioner and learned counsel for the Indian Oil Corporation.

The contention of the petitioner is that the rejection of her case is contrary to the settled principles of law and has been occasioned on account of the

fact that there was minor discrepancy in the form recital of the lease deed of the land offered by the petitioner. It was asserted that the said

discrepancy having been noticed, was subsequently rectified well in time by the petitioner by means of Sudhipatra. However, the authorities have

chosen to act in an arbitrary manner and have declined to notice the rectification which has caused serious prejudice to the petitioner. The further

submission advanced is that the IOC has sought to defeat the petitioner's candidature by picking up on a minor discrepancy as any plot is identified by

its plot number & Khata number and not by its Jamabandi number. Thus, even if there was a mistake in the Jamabandi number, the same could well

have been ignored and in view of the fact that the Sudhipatra had been placed before the respondent there arose no reason for the authorities to

sideline and rejected the case of the petitioner. Thus, this Court may in its extra ordinary jurisdiction interfere and set aside the impugned order of

rejection.

As informed, though the LOI has not yet been issued, this contention of the petitioner, in the considered opinion of this Court, does not appear to be

tenable at this stage, especially when a sufficient number of years have expired and there was no restraint order passed against the authorities for

keeping the allotment of dealership in abeyance. Moreover it is settled law as has been cited by the respondents that once an application has been

filed, no further material can be filed for supplementing the candidature of any applicant. As such, sudhipatra filed subsequent to the date of

application, is a document which has been used to reinforce her candidature after the discovery was made at the time of field verification which,

according to the rules of the corporation, could not be accepted. Thus, the submission of the petitioner that there can be no impediment in using the

sudhipatra which was made to supplement the lease deed for the offered land for the purpose of show room is but fit to be rejected.

In view of the aforementioned facts and circumstances, this Court finds the present application to be devoid of any merit and is accordingly dismissed.