

(2001) 07 P&H CK 0188
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 11502 of 1998

Anup Singh

APPELLANT

Vs

Bharat Petroleum Corporation Ltd., New Delhi

RESPONDENT

Date of Decision : 12-07-2001

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2001) 4 RCR(Civil) 579

Hon'ble Judges : Jawahar Lal Gupta, J; Ashutosh Mohunta, J

Bench : Division Bench

Advocate : R.K. Jain, for the Appellant; Raman Sharma and Rajbir Sehrawat, for the Respondent

Final Decision : Dismissed

Judgement

Jawahar Lal Gupta, J.—Is the action of the respondent-Bharat Petroleum Corporation Limited in allotting a Gas Agency to respondent No. 4 illegal and thus liable to be set aside ? This is the short question that arises in this petition. A few facts as relevant for the decision of this case may be briefly noticed.

2. On November 19, 1993, the Corporation invited applications for appointment of a distributor for "Bharat Gas" from amongst the candidates belonging to Scheduled Castes. Various conditions of eligibility were laid down. One of these related to residence. It was inter-alia provided that the applicant should be a resident of "any one of Rohtak/Jind/Hisar/Sonapat/Panipat/Bhiwani/Rewari and Gurgaon Districts in the State for a period not less than 5 years immediately preceding the date of application". The petitioner alleges that respondent No. 4 was in fact residing in village Garah, District Jalandhar in the State of Punjab. He was, thus, not eligible to be considered for appointment as a distributor. The petitioner further alleges that the candidates were interviewed by the Selection Board. He was placed at No. 2. Despite that, the distributorship had been given to respondent No. 4. The petitioner made a complaint. When nothing was done, he has approached this Court through the present writ petition. He prays that the

allotment made to respondent No. 4 be quashed and a writ of Mandamus be issued directing the Corporation to make the allotment in his favour.

3. The respondents contest the petitioner's claim. In the reply filed on behalf of the respondent Corporation, it has been inter-alia averred that the applications were scrutinised. Thereafter, these were placed before the Dealers Selection Board. The candidates were interviewed. Respondent No. 4 was selected and placed at No. 1. The petitioner's complaint that respondent No. 4 was not a resident of village Balsamand in District Hisar was inquired into. The Domicile Certificate dated November 18, 1993 issued in favour of the 4th respondent was confirmed vide Note dated February 24, 1998 by the City Magistrate. Even the voters list was checked. The 4th respondent is recorded as a voter in village Balsamand District Hisar. Copies of these documents have been produced on record as Annexures R1/2 to R1/4. A letter of Intent had been issued to the 4th respondent on June 19, 1995. Rest of the averments have been controverted. Thus, it has been prayed that the writ petition be dismissed with costs.

4. A separate reply has been filed by respondent No. 4. It has been averred that the petitioner's claim that he was at No. 2 in the merit list is totally false. In fact, he had not been found suitable and was not included in the list prepared by the Selection Board. It has been further averred that the petitioner has filed this petition "just to take unlawful advantage.....". He had used a similar technique to become a partner in case of another person to whom an agency had been allotted. With regard to residence, it has been stated that the respondent's parents were residing in District Jalandhar. On being misguided by somebody, he had on an earlier occasion submitted an application for allotment of a Kerosene Depot in which he had disclosed his address of District Jalandhar. However, the residence certificate etc. as required were not filed. The application was left incomplete. Resultantly, he had not competed for selection for allotment of the Kerosene Depot. Otherwise, he has been a resident of Balsamad District Hisar since 1986. His name is entered in the voters list of the village at Sr. No. 613, Block No. 5. Still further, it has been pointed out that the Vigilance Bureau of the State Government had conducted an enquiry through the Superintendent of Police, Hisar. The extract of the enquiry report has been reproduced in reply to para 6 of the writ petition. It was found that "in the year 1986 Yugal Kishore (respondent No. 4) started working with Ravi Ratan son of Dev Raj at Haryana Filling Station Bal Sumand In return of his employ-merit he was given bread, cloth and residential accommodation. His parents or brothers do not own any land worth cultivation in Amritsar or any where else." Various other allegations have also been controverted. The respondent prays that the writ petition be dismissed.

5. The petitioner has filed a replication to the reply filed by respondent No. 4. The claim as made in the writ petition with regard to residence of the 4th respondent has been reiterated. Rest of the averments have been controverted.

6. Learned counsel for the parties have been heard. The solitary contention

raised by Mr. R.K. Jain, learned counsel for the petitioner, is that the 4th respondent had initially disclosed his residence in village Garh District Jalandhar. At the time of applying for the allotment of distributorship of Gas, he had claimed to be resident of village Balsamand in District Hisar. Thus, he had wrongly shown his place of residence. In fact, he was not eligible for the allotment of the Agency. Relying upon the decision of a Single Bench of this Court in Jagtar Singh v. Hindustan Petroleum Corporation Limited and Ors. 1995(2) RCR (Civil) 494 (P&H)(DR): 1995(2) PLR 328, the counsel contends that the allotment should be cancelled. The claim made on behalf of the petitioner has been controverted by M/s Ram an Sharma and Rajbir Sehrawat who have appeared on behalf of the respondents.

7. It is true that the 4th respondent had initially submitted an application for allotment of Kerosene Oil depot. He had claimed to be a resident of village Garah in District Jalandhar. However, the petitioner himself has produced a copy of the application dated August 18, 1993 in which the 4th respondent had informed the Corporation that he has not attached "documents of residence certificate, Scheduled Caste Certificate...". These documents were not furnished by the 4th respondent. Resultantly, the respondent had never completed the application and he was not considered. Subsequently, when applications were invited for allotment of a Gas Agency, the 4th respondent had claimed to be a resident of village Balsamand in District Hisar. He was considered along with the other applicants including the petitioner. While the 4th respondent was selected and placed at No. 1, we are informed by the counsel for the Corporation that Mr. Kashmiri Lal was placed at No. 2. So far as the petitioner is concerned, he was not placed on the panel of persons found suitable by the Selection Board. Prima facie, the petitioner should have no cause for grievance.

8. The petitioner had complained regarding the eligibility of respondent No. 4. A copy of the complaint dated June 10, 1997 has been produced as Annexure P-5 with the writ petition. Even if the fact that the complaint had been made about two years after the issue of the Letter of Intent in favour of respondent No. 4 is ignored, it is established on the record that this complaint was thoroughly probed. An enquiry was conducted even by the State Vigilance Bureau. The Corporation had made its own enquiry. It was clearly established that the 4th respondent was a resident of village Balsamand. He had been working on a Petrol Pump in that area. Thus, the complaint was found to be false. In this situation, it cannot be said that the 4th respondent was not a resident of village Balsamand or that he was ineligible to be considered for the allotment of the Gas Agency. While saying so, we are not unmindful of the fact that on an earlier occasion the 4th respondent had claimed himself to be resident of District Jalandhar. However, it is clear from the record that the application submitted by him was incomplete. He had claimed to be a resident of District Jalandhar as his parents were residing there. Yet, he had realised the difficulty. Thus, he had not perused (pursued ?) that application. Thus, he had derived no advantage by making a claim regarding residence in District Jalandhar.

9. Mr. Jain submits that respondent No. 4 had submitted an application to the Tehsildar for the issue of a certificate of residence. The petitioner has produced a copy of this application as an Annexure with the writ petition. It is, undoubtedly, so. However, there is nothing on the file to show that the respondent had ever procured a certificate or produced it before the concerned authority. In any case, it was a matter to be considered by the respondent- Corporation. On enquiry, it was satisfied that the 4th respondent was in fact a resident of District Hisar. Thus, no action was taken against him. In doing so, the Corporation had taken a possible view. It had committed no illegality, Thus, we find no infirmity in the allotment of the Gas Agency to the 4th respondent.

10. There is another aspect of the matter. The petitioner had a right to be considered. It is the admitted position that he was duly interviewed. His claim was considered. He was not found suitable. Even if the 4th respondent was to be excluded, the petitioner would not have got the distributorship. Kashmiri Lal was placed at Sr. No. 2 at the panel. At best Kashmiri Lal could have made some claim. He has not challenged the allotment in favour of the 4th respondent. The petitioner has really no cause for grouse.

11. Mr. Jain refers to the decision in Jagtar Singh's case (supra). In this case, the allotment of a retail outlet by the Hindustan Petroleum Corporation Limited was challenged on the ground that the selected person had an income of more than Rs. 50,000/-. He was, thus, ineligible. On consideration of the matter, it was found that the applicant had a monthly income of Rs. 7,000/-. Thus, his selection was set aside. In the present case, nothing has been placed on record to show that the 4th respondent was not a resident of village Balsamand District Hisar. It has not been established on the file that he is actually residing in district Jalandhar. In fact, the Corporation as well as an independent agency viz. the State Vigilance Bureau have conducted a probe. It has been established that the 4th respondent is president of village Balsamand District Hisar. In this situation, the petitioner can derive no advantage from the decision in Jagtar Singh's case (supra).

12. Lastly, it also deserves notice that the distributorship had been allotted to the 4th respondent in the year 1995. He is, admittedly, running the Gas Agency since the year 1997. The writ petition was filed in this Court in July 1998. As of today, the 4th respondent has been running the Agency for a period of about four years. It is also not disputed that the 4th respondent was actually working at a Petrol Pump to earn his bread. He is a member of the Scheduled Castes. He belongs to the weaker section of the society. If he has now found some way to make a living, it would be unjust to deprive him of it especially when the petitioner can gain nothing.

13. No other point has been raised.

14. Taking the totality of circumstances into consideration, we find no ground to interfere with the action of the respondent-Corporation. Consequently the

petition is dismissed. In the circumstances, we make no order as to costs.

15. Petition dismissed.