

(2017) 04 RAJ CK 0160
In the Rajasthan High Court
Case No : 14499 of 2015

Arun Kumar Nagda

APPELLANT

Vs

The Indian Oil Corporation Limited & Anr.

RESPONDENT

Date of Decision : 07-04-2017

Acts Referred:

Citation : (2017) 04 RAJ CK 0160

Hon'ble Judges : Sangeet Lodha

Bench : SINGLE BENCH

Advocate : Manish Pitaliya, Sandeep Shah

Judgement

1. By way of this writ petition, the petitioner is seeking directions to the respondents to award LPG Distributorship in his favour at Kailashpuri, District Udaipur pursuant to his selection in the draw of lots.

2. The Oil Companies including the respondent-Indian Oil Corporation Limited (IOCL), issued an advertisement inviting applications for award of Rajiv Gandhi Gramin LPG Distributorship (RGGLV) at various locations in the State of Rajasthan. The petitioner applied for award of distributorship at the location Kailashpuri, District Udaipur under "Open Category". Vide communication dated 7.8.13 issued by the Senior Area Manager, IOCL, the petitioner was informed that he has qualified for draw for selection of RGGLV. The draw of lots was conducted on the scheduled date wherein the petitioner was selected. Pursuant to the communication dated 6.5.15 of Chief Area Manager, IOCL, Jodhpur Area Office, the petitioner deposited a sum of Rs.25,000/- as security deposit. However, after field verification, it was found that land offered by the petitioner for the purpose of Showroom and Godown is located at village Matata and not at the advertised location Kailashpuri. Accordingly, vide communication dated 1.10.15, the candidature of the petitioner was rejected and an amount of Rs.20,000/- deposited by the petitioner with the Corporation was forfeited in line with the policy. Hence, this petition.

3. Learned counsel appearing for the petitioner contended that as per the selection process of the respondents, only eligible applicants are liable to be included for draw of lots and admittedly, the petitioner was found eligible for inclusion in draw of lots and therefore, the question of rejection of the candidature of the petitioner on the basis of alleged field verification holding him ineligible, does not arise. Learned counsel urged that the location advertised was Kailashpuri but admittedly, it has not been mentioned in the advertisement that the land proposed for Showroom and Godown should be situated in the revenue village of Kailashpuri. Learned counsel submitted that the revenue village Matata falls within the area of Ward No.5 of Gram Panchayat, Kailashpuri and thus, the action of the respondents in rejecting the candidature of the petitioner on the ground that the land proposed for Showroom and Godown is not situated at the location advertised, is *ex facie* illegal and arbitrary. Learned counsel submitted that the petitioner had given complete details of the land and the location thereof in the application form and thus, in absence of any suppression or concealment on his part, the respondents are not justified in forfeiting the security deposit.

4. On the other hand, the counsel appearing for the respondent-IOCL submitted that the location advertised is village Kailashpuri and not the territorial limits of Gram Panchayat, Kailashpuri and thus, apparently, the land proposed by the petitioner for Showroom and Godown situated at revenue village Matata, does not fulfill the location requirement and thus, the action of the respondent in rejecting the candidature of the petitioner cannot be faulted with. Learned counsel submitted that the field verification is conducted only of the land proposed by the selected candidates, which is obviously done after the selection in the draw of lots and thus, the contention raised that the petitioner having been included in draw of lots on being found eligible, his selection cannot be subsequently cancelled, is devoid of any merit. Learned counsel submitted that the amount of security deposit has been forfeited in line of the policy of the Oil Companies and thus, the question of refund of the security deposit does not arise.

5. I have considered the rival submissions of the learned counsels for the parties and perused the material on record.

6. A bare perusal of the advertisement reveals that the advertised location is village Kailashpuri of District and Tehsil Udaipur and not the Panchayat Area of Gram Panchayat, Kailashpuri. Merely because, Gram Panchayat, Kailashpuri consists of many villages, the petitioner cannot be permitted to propose the location for establishment of the RGGLV in any village falling within the territorial limit of Gram Panchayat, Kailashpuri. The advertised location being village/town specific, obviously, the land proposed for establishment of Showroom/Godown by the candidate must be located within the territorial limit of the village/town. Thus, the action of the respondents in rejecting the candidature of the petitioner on the ground that land offered by him for the purpose of Showroom and Godown was not as per advertised requirement, cannot be said to be illegal or arbitrary.

7. Coming to the contention of the petitioner that after inclusion in the draw of lots and being selected, the candidature of the petitioner could not have been rejected, it is to be noticed that as per clause 9 of the Brochure issued for selection of RGGLV, the candidate selected in the draw is required to submit a Demand Draft of Rs.20,000/- i.e. 10% of the security deposit of Rs.2,00,000/- within three working days from the receipt of letter issued by the concerned office of the Oil Company in this regard and the Field Verification of the Credential (FVC) of selected candidates is undertaken only thereafter. Further, as per clause 10.3 of the Brochure, if in FVC, it is found that the information given in the application is at variance with the original documents and that the information affects the eligibility of the candidate, the candidature of selected candidate shall be liable to be cancelled and 10% of security deposit i.e. Rs.20,000/- deposited by the selected candidate before FVC will be forfeited, if false/incorrect/misrepresented information has been given in the application.

8. It is true that the information given by the petitioner in the application is not at variance with the original documents but undoubtedly, on field verification, it is revealed that the land proposed by the petitioner is outside the location advertised which obviously affects the eligibility of the petitioner for award of dealership. In this view of the matter, the cancellation of the candidature of the petitioner on the basis of the FVC, cannot be faulted with. But then, it is not the case of the respondents that the petitioner has given false/incorrect/misrepresented information or that the information given in the application is at variance with the original documents produced and thus, the action of the respondents in forfeiting the amount of Rs.20,000/- in terms of clause 10.3 of the Brochure, is not justified and therefore, the amount forfeited deserves to be refunded to the petitioner.

9. Accordingly, the writ petition is partly allowed. The rejection of the candidature of the petitioner by the respondents vide communication dated 1.10.15, is held to be valid. However, the action of the respondents in forfeiting the amount of Rs.20,000/- deposited by the petitioner is held illegal. The respondents are directed to refund the amount of security deposit to the petitioner within period of one month from the date of receipt of certified copy of this order. No order as to costs.