

(2015) 08 KAR CK 0146

In the Karnataka High Court

Case No : Writ Petition No. 53296 of 2014 (GM-RES)

B.G. Darshan Gowda

APPELLANT

Vs

Bharat Petroleum Corporation Ltd., Bangalore and Others

RESPONDENT

Date of Decision : 05-08-2015

Acts Referred:

Citation : AIR 2015 Kar 197

Hon'ble Judges : A.S. Bopanna, J.

Bench : Single Bench

Advocate : N.S. Sanjay Gowda, for the Appellant; M.S. Narayan, for the Respondent

Final Decision : Disposed Off

Judgement

A.S. Bopanna, J.—The petitioner is before this Court assailing the communication dated 28-2-2014 impugned at Annexure-K to the petition. The petitioner is further seeking that the respondents be directed to appoint the petitioner as the LPG Distributor for Kunigal as per the decision of the Draw held on 5-10-2013. The petitioner had responded to the notification dated 5-2-2012 calling for applications for appointment of LPG distributors for Kunigal. The requirements to be satisfied were as per the indication in the public as also the guidelines for selection of regular LPG distributors. The respondents at the first instance having taken note of the application filed by the petitioner had found him to be eligible as per the details furnished in the application and was invited for draw of lots. In the draw of lots, the name of the petitioner was selected and as such, the field verification was done. At that point, since the respondents are stated to have noticed a discrepancy with regard to the details furnished in the application, have issued the communication dated 28-2-2014 intimating the petitioner that his candidature cannot be accepted. They have further forfeited the sum of Rs. 25,000/- which has been deposited by the petitioner. It is in that light, the petitioner is before this Court.

2. The respondents have filed their objection statement seeking to justify their

action.

3. Having noticed the rival contentions, the only aspect which arises for consideration in the instant petition is as to whether the petitioner held the minimum deposit of Rs. 10,00,000/- in the account on the date of application as required under the guidelines. In order to consider this aspect of the matter, what is also required to be noticed is that the application initially filed by the petitioner was on 5-10-2012. Since the time for making the application was extended, the petitioner made one more application on 11-10-2012. Along with the said application, the petitioner had furnished the registered deed of the property taken on lease. In the light, both the applications were taken into consideration by the respondents. The admitted position is that as on 11-10-2012, the bank account of the petitioner did not have the deposit of Rs. 10,00,000/-. Even if that be the position, the question for further consideration is as to whether the availability of Rs. 10,00,000/- on 5-10-2012 could be considered as having satisfied the requirement in the instant facts.

4. The extract of the passbook of the account held by the petitioner in the Indian Overseas Bank is at Annexure-G to the petition. A perusal of the same would indicate that the petitioner had deposited a sum of Rs. 2,95,500/- on 4-10-2012 and as such including the sum which was already available in the account, the total amount in the account of the petitioner as on 4-10-2012 was Rs. 10,00,500/- and the application was made on 5-10-2012. The petitioner had issued three cheques bearing Nos. 934764, 934762 and 934763 which were all presented on 5-12-2012 and on withdrawal of the amount under the said cheques, the balance was below Rs. 10,00,00/-.

5. If that be the position, the manner in which it is to be construed is that requires for consideration. From the Regulations, though it provides that the minimum balance of Rs. 10,00,000/- is to be indicated in the account as on the date of the application, there is no requirement that it should be held so, till the process is completed, either at the time of the field verification or subsequently thereafter.

6. If that aspect of the matter is kept in view, as at the time when the petitioner filed the application on 5-10-2012, the amount of Rs. 10,00,000/- was held by the petitioner, since from the statement of account, it is seen that the said amount was available on the previous date and at the time of filing the application. The position would be if for any reason, the said three cheques were presented on a day subsequent to 5-10-2012, it is only on the said date, the balance would have reduced.

7. Therefore, when the requirement under the guidelines does not contemplate that the amount in the account should be held even on a day subsequent to the date of filing of the application, merely because on the same day there have been some withdrawals though the petitioner had the balance at the time of filing the applications, that in itself should not disentitle the consideration of case of

petitioner when he has complied all other requirements. I am of the said opinion for the reason that the guidelines do not require that on the next date, the sum deposited should be held in the bank in the account of the petitioner. Hence, a beneficial construction of the position is to be made. Therefore, I am of the opinion that in the present facts and circumstances of the case, the impugned communication dated 28-2-2014 is not justified. The same is accordingly quashed. The respondents are directed to consider the application of the petitioner to conclude the process for appointment of the distributorship in that regard.

The petition is accordingly disposed of.