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(2015) 08 SC CK 0033

In the Supreme Court Of India

Case No : C.A. No. 6677 of 2015 (Arising out of SLP(C) No. 2611/2015)

Bharat Petroleum Corporation Ltd. and Others APPELLANT

Vs

Meet Kalhar RESPONDENT

Date of Decision : 28-08-2015

Acts Referred:

Citation : (2016) 2 ALLMR 478 : (2015) 9 SCALE 601

Hon'ble Judges : Ranjan Gogoi, J;Prafulla C. Pant, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Leave granted. The challenge herein is against the order dated 13th October, 2014 passed by the High Court of Allahabad by which the writ petition filed by the Respondent herein has been allowed and the order dated 23rd March, 2013 passed by the Appellant No. 2 rejecting the application of the Respondent for grant of L.P.G. Distributorship at Meerut under the open category was set aside. Consequential directions were also issued by the High Court to consider the application of the Respondent-writ Petitioner for grant of distributorship in accordance with the findings and observations recorded in the order of the High Court.

2. The application of the Respondent-writ Petitioner for grant of distributorship was rejected on the |round that the Respondent did not have minimum liquid funds of Rs. 15 lakhs as on the date of the application. This was notwithstanding the fact that the Respondent-writ Petitioner had shown a total of Rs. 40,14,534.00 as available with him against column No. 11 of the application form. Out of the said amount while an amount of Rs. 2,08,328.00 was shown to be available in the bank account of the Respondent himself another amount of Rs. 54,026.00 was shown as available in the joint account of the Respondent and his wife. An amount of Rs. 37,52,180.00 was shown as available in the joint account of the Respondent and his brother Ankur Kalhar in the Oriental Bank of Commerce. Notwithstanding the above, the decision was taken by the Appellants

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to the effect that the Respondent did not have the minimum liquid fund of Rs. 15 lakhs as on the date of the application which decision was challenged in the writ petition filed before the High Court.

3. The above decision of the Appellants will necessarily have to be understood by a reference to Clauses 7.1(iv) and 7.1(v) of the Guidelines for selection of Regular LPG Distributors published by the Appellants. Clause 7.1(iv) defines "Family Unit" in the following terms:

"Family Unit" in case of married person/applicant, shall consist of individual concerned, his/her Spouse(s) and their unmarried son(s)/daughter(s). In case of unmarried person/applicant, ''Family Unit'' shall consist of individual concerned, his/her parents and his/her unmarried brother(s) and unmarried sister(s). In case of divorcee, ''Family Unit'' shall consist of individual concerned, unmarried son(s)/unmarried daughter(s) whose custody is given to him/her. In case of widow/widower, ''Family Unit'' shall consist of individual concerned, unmarried son(s)/unmarried daughter(s)."

Clause 7.1(v) also will require specific notice and is therefore extracted below: "Having minimum total amount of Rs. 15 lakhs for Urban Markets and Rs. 10 lakhs for Urban-Rural & Rural Markets respectively as on the date of application. This amount is to be arrived at by adding amount in Savings Bank account in Scheduled Bank/Post Office, free and un-encumbered Fixed Deposits in Scheduled Banks, Post Office, Listed Companies/Government Organization/Public Sector Undertaking of State and Central Government, Kisan Vikas Patra, NSC, Bonds, Shares of Listed Companies, Listed Mutual Funds, ULIP, PPF, Surrender Value of Life Insurance policies in the name of Applicant or family members of the ''Family Unit'' of the Applicant as defined above. In case of locations reserved under ''SC/ST'' category, minimum total amount as on the date of application should be Rs. 5 lakhs for Urban Markets and Rs. 2.5 lakhs for Urban-Rural & Rural Markets respectively."

4. The sum total of the above requirements spelt out in the Guidelines is that for a distributorship in an Urban Market, with which the present proceedings are concerned, the minimum requirement of funds is Rs. 15 lakhs as on the date of the application which amount could be in a Savings Bank account in a Scheduled Bank/Post office. Under Clause 7.1(v), extracted above, the amount of Rs. 15 lakhs could also be available in other forms as mentioned in the said sub-clause details of which have not been enumerated herein. The same are however not relevant for the present case as the Respondent-writ Petitioner had offered the amount in question as available in the Savings Bank account in a Scheduled Bank.

5. The Appellants in the counter affidavit filed before the High Court had stated that the Respondent-writ Petitioner is a married person and as such the joint account in the Oriental Bank of Commerce standing in his name and in the name of his brother Ankur Kalhar cannot be considered for the purpose of award of L.P.G. Distributorship inasmuch as Under Clause 7.1(iv) ''Family Unit'', as

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defined, in case of a married person shall consist of the individual concerned, his/her spouse(s) and their unmarried son(s)/daughter(s) . It is only in case where the applicant is an unmarried person that the ''Family Unit'' can include an unmarried brother or an unmarried sister.

6. The High Court in the impugned order took the view that as the issue of joint account and acceptance thereof had not been mentioned in the order dated 23rd March, 2013 rejecting the application of the Respondent-writ Petitioner, the validity of the order impugned in the writ petition has to be necessarily judged on the basis of the reasons given and such reasons cannot be enlarged or supplemented. The High Court also took the view that in any event the joint account in the name of the Respondent-writ Petitioner and his brother did not run contrary to the provisions of Clauses 7.1(iv) and 7.1(v) and that the Guidelines have to be understood by application of the principles of purposive interpretation having regard to the underlying objective thereof. There can be no manner of doubt that the Appellant as the grantor can lay down guidelines and parameters on the basis of which application(s) for grant of distributorship is to be considered. So long such guidelines and parameters are not found to be unreasonable or ex facie irrelevant the Appellant would have the right to insist on compliance thereof. In the present case, Clauses 7.1(iv) and 7.1(v) of the Guidelines were not under challenge in the writ petition filed. The said guidelines lay down the requirements as to availability of finance in the hands of the applicant making an application for grant of distributorship. The finance shown to be available could also be held jointly with the members of the family as defined in the guidelines. In this regard, it will be required to notice that the definition of ''Family'' has been spelt out by the guidelines depending on the marital status of the applicant. If the applicant is a married person the definition of family unit in Clause 7.1(iv) of the Guidelines does not take within its fold an unmarried brother or sister. Not only the legality and legitimacy of the said conditions have not been put to challenge in the writ petition, even otherwise, we do not find the same to be either unreasonable or irrational. We, therefore, have to hold that it was within the domain of the Appellants, as the grantor, to lay down such conditions. Admittedly, the Respondent-writ Petitioner did not satisfy the laid down conditions inasmuch though he is a married person he had indicated the availability of the required funds in a joint account in the Oriental Bank of Commerce which he held with his brother. The reasons recorded in the order of rejection dated 23rd March, 2013 have to be necessarily understood in the above context in which event it must be held that the same was in conformity with the laid down parameters. The High Court, therefore, was wrong in setting aside the said decision of the Appellant and in allowing the writ petition filed by the Respondent. Consequently, we allow this appeal; set aside the order of the High Court of Allahabad and uphold the order dated 23rd March, 2013 passed by the Appellant herein.

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