
(2002) 07 DEL CK 0071

In the Delhi High Court

Case No : CW No. 240 of 1997 and CM 401 of 1997

B.L. Bagai

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 22-07-2002

Acts Referred:

Citation : (2002) 99 DLT 733

Hon'ble Judges : Manmohan Sarin, J

Bench : Single Bench

Advocate : Sunil Bagai, for the Appellant; Rajiv Shakhder, for the Respondent

Final Decision : Dismissed

Judgement

Manmohan Sarin, J.—Rule.

With the consent of the parties, writ petition is taken up for disposal.

2. The petitioner Mr. B.L. Bagai had applied for the allotment of a petrol pump site between Vasant Kunj, Andheria Mor and Maksoodpur in pursuance to an advertisement in the newspaper "Hindustan Times" and appearing at page 25 of the paper book. By this advertisement, Indian Oil Corporation had invited applications from candidates who were freedom fighters. Various conditions of eligibility were set out. The applicants inter alia were required to be resident of Delhi for a period of 5 years, the family income should not be more than 50,000/- etc.

3. The petitioner, late Mr. B.L. Bagai himself, was an applicant. Petitioner aggrieved by the decision of the Selection Board, by which respondent No. 4 one Mr. Kishan Gopal was appointed filed this petition. Unfortunately, Mr. B.L. Bagai passed away on 7.2.2001. Writ petition had in between been dismissed twice, but had since been restored. The application bearing CM No. 5711/2001 has been moved by the applicants Mrs. Chander Bagai Widow of late Shri B.L. Bagai, Mr. R.M. Bagai, son of Shri B.L. Bagai and Shri Sunil Bagai, Advocate for

substitution.

4. The first question which arises for consideration in this writ petition is whether the petitioner having expired on 7.2.2001, the right to sue devolves upon the present applicants or not? The other question which arises for consideration is the challenge to the selection process and the allotment to respondent No. 4. It was put to Mr. Sunil Bagai, counsel for the petitioner, that based on the advertisement that was invited for the allotment of the retail petrol pump dealership, the applicant himself had to be a freedom fighter. There is no provision made either in the advertisement inviting the application or in the policy, whereby the LRs of the freedom fighter would be eligible for this benefit. The benefit was intended for the freedom fighters alone. Confronted with this situation, Mr. Sunil Bagai argued that the petition is in the nature of public interest litigation. I am not persuaded to accept this submission. A perusal of the petition, as filed shows that it was the petitioner, who was aggrieved. Para No. 2 of the petition refers to the application moved by the petitioner. Paras 3 and 4 refer to the rejection of the petitioner's application as well as the interview Board not putting any questions to the petitioner. A meaningful reading of the petition shows that it was not a petition in public interest. It is not so stated even in the petition. Moreover, petitioner could only by a writ of certiorari ask for quashing the selection of respondent No. 4 and seek fresh consideration of the case and not a mandamus for allotment of the dealership to him.

5. Mr. Shakhder, counsel for the respondent urges that the ground assailing the selection of respondent No. 4 was also devoid of merit. The main ground assailing the selection process is that the Board was not properly constituted in the absence of the Chairman, who had to be a High Court Judge presiding over the Board. Counsel refers to Annexure R-1 to the counter affidavit of respondent No. 2 appearing at page 45, which is an office memorandum. The said office memorandum sets out the constitution of the Board. It provides that in case the Chairman is absent the SC/ST member shall officiate for the said Chairman. In other words, the requirement is of a quorum of 2 members, who can function even in the absence of the Chairman. Moreover as I have held that this is not a petition in the nature of public interest and it is in fact a petition of late Mr. B.L. Bagai, no right to sue would survive to the LRs of the freedom fighters, who are the applicants.

6. In view of the foregoing discussion, the petition is not maintainable. Even otherwise, it is devoid of merit and is dismissed.