
(1995) 03 SC CK 0158
In the Supreme Court Of India
Case No : C.P. 39 OF 1992

Center for Public Interest Litigation

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 31-03-1995

Acts Referred:

Citation : (1996) 7 SCC 116

Hon'ble Judges : Sujata V. Manohar, J; J. S. Verma, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

1. In this writ petition which has been brought in public interest, the exercise of discretion in allotment of retail outlets for petroleum products, LPG Dealership and SKO Dealership by the central government is challenged. It is urged that there are no guidelines to regulate the exercise of discretion in the matter of such allotments which results in exercise of the discretion arbitrarily.

2. After hearing the learned counsel for the parties, we requested the learned Attorney General to submit a draft of the proposed guidelines to regulate exercise of the discretionary power in the matter of such allotments in the light of the suggestions made on behalf of the petitioner at the hearing. The learned Attorney General submitted a draft of the proposed guidelines together with the general conditions on which the applicants may be chosen for making the allotments. In addition, the learned Attorney General also indicated certain details for being inserted in the brochure of guidelines for selection of dealers available with all the oil companies.

3. To ensure the exercise of discretion in making such allotments in conformity with the rule of law by excluding the likelihood of arbitrariness and minimising the area of discretion by regulating its exercise in accordance with settled norms and guidelines, we indicate herein these norms which would govern all future allotments. The norms/guidelines required to be followed hereafter in making all

such allotments are as under:

Guidelines for Discretionary Allotments of Petroleum Products Agencies.

The following are the guidelines which are to be the guiding factors in discretionary allotments of dealership/distributorship on compassionate grounds:

1. Dependent of a person who has made supreme sacrifice for the nation, but has not been properly rehabilitated so far.
2. Member of a family which has been a victim of unforeseen circumstances, like terrorist attack, earthquake, floods etc.
3. Physically handicapped person.
4. Defence/paramilitary/police personnel/other Central/State Government employees, who are permanently disabled on duty.
5. Immediate next of kin, namely, widow, parents, children of those who lost their lives in abnormal circumstances.
6. Eminent professionals like outstanding sportsmen, musicians, litterateurs etc. and women, of high achievements, in distress.
7. Individual cases of extreme hardship, which in the opinion of Government are extremely compassionate and deserve sympathetic consideration in view of the special circumstances of the case at the given time.
8. The number of discretionary allotments should not ordinarily exceed 10% of the average annual marketing plan of which allotments of retail outlets for petroleum products should not normally exceed 5%.

General Conditions

1. He/she should be a citizen of India.
2. He/she or any of his/her following close relatives (including step relatives) should not already hold a dealership of petroleum products of any oil company:
 - (i) spouse
 - (ii) father/mother
 - (iii) brother
 - (iv) son/daughter-in-law.

Procedure

AS regards the procedure to be followed for discretionary allotments, the suggestions, are as under:

- (i) Candidates will submit a proper application giving their complete bio-data indicating the name of spouse/father, occupation, permanent address, annual

income for the preceding year in respect of self, spouse and parents from all sources etc. enclosing documentary evidence wherever necessary in support of their request and an affidavit verifying the given facts. Where allotments are sought on partnership basis, each partner will furnish the above information individually,

(ii) Applications will be processed by the office in the light of the eligibility criteria and submitted through established channel for the orders of the Minister. The Hon'ble Minister must personally decide each case, and the order should be a speaking order. An unsuccessful applicant in the same category if he applies for it, shall be supplied a copy of that order.

(iii) Necessary verification regarding caste, multiple norms, income, etc. in respect of successful candidates will be done before issuing the Letter of Intent to the allottee.

(iv) If the information furnished by a candidate is subsequently found to be wrong/forged, allotment made on this basis will be cancelled.

To Be Inserted In The Brochure of Guidelines For Selection of Dealers Through The Oil Selection Board

Discretionary Quota

A discretionary quota will be earmarked for deserving cases on genuine compassionate grounds. This quota will be outside the 100 point roster of marketing plans and outside the purview of the Oil Selection Boards.

Candidates will submit a proper application to the Ministry, giving their complete bio-data indicating the name of spouse/father, occupation, permanent address, annual income for the preceding year in respect of self, spouse and parents from all sources enclosing documentary evidence wherever necessary in support of their request and an affidavit verifying the given, facts.

Discretionary allotment will be made to a candidate only if he is a citizen of India. If he/she or any of his/her following close relatives (including step relatives) does not already hold a dealership of petroleum products of any oil company:

(i) spouse

(ii) father/mother

(iii) brother

(IV) son/daughter-in-law.

4. We hereby direct that the above-quoted norms/guidelines etc. shall be followed by the central government in making all such discretionary allotments of retail outlets for petroleum products, LPG Dealership and SKO Dealership, hereafter. A copy of this order be provided to every oil company by the central government for general information.

5. The writ petition stands disposed of in the above terms.