
(2014) 01 RAJ CK 0202
In the Rajasthan High Court
Case No : Civil Writ Petition No. 732/2014

Chandra Prakash Lakhara

APPELLANT

Vs

Bharat Petroleum Corporation Ltd.

RESPONDENT

Date of Decision : 30-01-2014

Acts Referred:

Post Office Act, 1898 — Section 4, 5

Citation : (2014) 1 WLN 526

Hon'ble Judges : Pratap Krishna Lohra, J

Bench : Single Bench

Advocate : Sandeep Saruparia, Advocate for the Appellant

Final Decision : Dismissed

Judgement

Pratap Krishna Lohra, J.—The petitioner has preferred this writ petition imploring quashment of letter/order dt. 02.12.2013 (Annex.P/5) passed by the Head, LPG DSC, Rajasthan. By the said communication, the application of the petitioner for LPG Dealership at Kankroli, District Rajsamand, in the category of OBC, was returned back with the original envelope by assigning the reason that the said application was not received in the office of respondent before the last date notified in the advertisement (Annex.1), which was published in Daily Rajasthan Patrika, Udaipur edition, dt. 21.09.2013. As per the advertisement, last date for receipt of application form was notified as 22.10.2013 and the application of the petitioner was received in the office of respondent on 25.11.2013.

2. Assailing the action of the respondent, the petitioner has averred in the petition that the application form for allotment of LPG dealership for Kankroli, District Rajsamand with requisite documents was sent by him in the office of respondent on 15.10.2013. For substantiating the same, the petitioner has placed on record the receipt dt. 15.10.2013 of Mukesh Express Service, which is said to be a courier of Kankroli. For proving the delivery of the envelope containing application and other requisite documents, the petitioner has placed on record the copy of delivery register of Khubani Air Pack showing the receipt of

the envelope on 22.10.2013. Although the delivery register contains initials with B.P.C.L. and date but no seal of B.P.C.L. is visible.

3. Learned counsel for the petitioner Mr. Sandeep Saruparia has urged that when the application form was sent by him on 15.10.2013 and it was received in the office of respondent on 22.10.2013, the reasons assigned in the impugned order for rejection of his application are not at all tenable. Mr. Saruparia has contended that the receipt of courier and the delivery register speaks volumes about the fact that the envelope which was sent on 15.10.2013 was received in the office of respondent on 22.10.2013, i.e. within the prescribed period as per advertisement, and therefore, rejection of the application, on the ground that it was received belatedly, cannot be sustained. Mr. Saruparia has also questioned the recitals contained in the impugned order Annex. 5, which indicate that the application was received in the office of respondent on 25.11.2013.

4. I have heard the learned counsel for the petitioner and perused the materials on record.

5. As per the advertisement (Annex.1), Clause 9 stipulates with clarity and precision that the application with requisites must reach on or before 22.10.2013 before closing of the office hour. The relevant provision contained in Clause 9 of the advertisement is reproduced in vernacular as under:

6. In that background, if the impugned communication is examined then it clearly and unequivocally reveals that the application form of the petitioner with requisite documents was not received in the office of respondent before the last date i.e. 22.10.2013 and on the contrary it was received on 25.11.2013, i.e. almost after more than one month from the date of expiry of the last date. The receipt of the courier placed on record and the delivery register showing the alleged delivery of the letter are also not compatible and are not inspiring confidence, inasmuch as the courier through which the envelope was sent is named as Mukesh Express Service, whereas the delivery register produced by the petitioner indicates the name of Khubani Air Pack. Why the petitioner has incurred the risk of sending his application form through an unauthorized courier is also not forthcoming from the averments contained in the writ petition. Chapter II of the Indian Post Office Act 1898 deals with privilege and protection of the Government, and Section 4 under the caption.

"Exclusive privilege of conveying letters reserved to the Government" makes it amply clear that except Government nobody is authorized to receive, collect, despatch and deliver letters, of course, with certain exceptions. The complete text of Section 4 of the Act of 1898 is reproduced as under:

4. Exclusive privilege of conveying letters reserved to the Government.--(1) Wherever within India posts or postal communications are established by the Central Government, the Central Government shall have the exclusive privilege of conveying by post, from one place to another, all letters except in the following cases, and shall also have the exclusive privilege of performing all the

incidental services of receiving, collecting, sending, dispatching and delivering all letters, except in the following cases that is to say:--

(a) letters sent by a private friend in his way, journey or travel, to be delivered by him to the person to whom they are directed, without hire, reward or other profit or advantages for receiving, carrying or delivering them;

(b) letters solely concerning the affairs of the sender or receiver thereof, sent by a messenger on purpose; and

(c) letters solely concerning goods or property sent either by sea or by land to be delivered with the goods or property which the letters concern, without hire, reward or other profit or advantage for receiving, carrying or delivering them:

Provided that nothing in this Section shall authorize any person to make a collection of letters expected as aforesaid for the purpose of sending them otherwise than by post.

(2) For the purposes of this Section and Section-5, the expression "letters" includes postcards.

7. In view of clear prohibition under Sec. 4 of the Act of 1898, the envelope allegedly sent by the petitioner through a private courier service cannot be construed as lawful dispatch and as such the alleged delivery of the same cannot be presumed or accepted. There is no quarrel in the factual position that Bharat Petroleum Corporation Limited is a Government of India enterprise, therefore, it was desirable from the petitioner to send the envelope containing his application form and other material documents through authorized postal services of the Central Government. Even otherwise, the receipt of courier and delivery register are also under serious cloud for discrepancy in their nomenclature and the fact that there is no seal of B.P.C.L. on the delivery register. In this view of the matter, I do not find any infirmity in the impugned communication warranting interference by this Court in exercise of its extraordinary jurisdiction. Resultantly, the writ petition sans merit and the same is accordingly dismissed summarily.