

(2013) 07 AHC CK 0188

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 16195 of 2013

Chhote Lal Jaiswal

APPELLANT

Vs

Bharat Petroleum Corporation Ltd. and Another

RESPONDENT

Date of Decision : 19-07-2013

Acts Referred:

Citation : (2013) 9 ADJ 295 : (2014) 3 ALJ 185

Hon'ble Judges : Rakesh Srivastava, J;Laxmi Kanta Mohapatra, J

Bench : Division Bench

Advocate : Anil Kumar Aditya, for the Appellant; Vikash Budhwar and S.C., for the Respondent

Final Decision : Dismissed

Judgement

Rakesh Srivastava, J.—In pursuance of an advertisement dated 16.4.2012, published in the daily newspaper inviting applications for award of distributorship of Liquid Petroleum Gas (LPG) under the Rajiv Gandhi LPG Vitrak Scheme (hereinafter referred to as the Scheme), the petitioner submitted his application for award of distributorship at village Sapha, district Kushinagar under open category. The application of the petitioner for grant of distributorship was rejected by an order dated 1.3.2013 on the ground that the petitioner failed to give the dimensions of the land offered by the petitioner.

2. This writ petition has been filed by the petitioner challenging the order dated 1.3.2013, mentioned above.

3. Heard Shri Anil Kumar Aditya learned counsel for the petitioner and Shri Vikash Budhwar, learned counsel appearing for the respondents.

4. The learned counsel for the petitioner has challenged the order dated 1.3.2013 on the ground that the petitioner was fully eligible for grant of LPG distributorship. The submission is that the respondents arbitrarily rejected the candidature of the petitioner on a technical ground. It has been further submitted by the learned counsel for the petitioner that by letter dated

20.12.2012, the petitioner was only required to submit the details of the land offered by him which the petitioner promptly did. There was no specific direction to disclose the dimension of the land in the letter dated 20.12.2012 and as per the understanding of the petitioner the petitioner furnished the details by submitting the necessary documents. It was submitted that from the documents submitted by the petitioner it was clear that GATA No. 9.66 (the land of the petitioner) had an area of .413 hectares. It was submitted that the land of the petitioner was more than 38 metres x 28 metres in dimension.

5. The learned counsel for the respondents, on the other hand has submitted that the petitioner was required to disclose the dimension of the land in the application form itself. This having not been done, the candidature of the petitioner was liable to be rejected. However, vide letter dated 20.12.2012 the petitioner was given another opportunity to disclose the details of the land at the advertised location as per clause 9 of the application form but the petitioner again failed to furnish the same. There was no ambiguity in the letter dated 20.12.2012 and the plea now being taken by the petitioner that he was not required to furnish the dimensions of the land is as after thought.

6. We have considered the arguments of the parties and perused the records.

7. Clause-6 of the brochure lays down the eligibility criteria for selection of LPG distributor under the Scheme.

8. Clause 6.1 (vii) of the brochure and clause 9 of the application form being relevant, are being quoted below:

6. ELIGIBILITY CRITERIA FOR RGGLV

6.1 Common Eligibility Criteria for all Categories:

Applicant applying for RGGLV should

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vii. Own a suitable land (plot) of minimum 20 metre x 24 metre in dimension at the advertised RGGLV location for construction of LPG cylinder Storage Godown.

Own means having clear ownership title of the property in the name of applicant/ family member of the "Family Unit" as defined in multiple dealership/ distributorship norm. In case of ownership/co-ownership by family member, consent letter from the family member will be required.

Land for construction of Godown will be considered suitable, if it is freely accessible through all weather motorale approach road (public road or private road of the applicant connecting to the public road) and should be plain, in one contiguous plot, free from live overhead power transmission or telephone lines, Pipelines/Canals/ Drainage/Nallahs should not be passing through the plot.

9. Clause 9 of the Application form:

10. Apart from other requirements, the candidates were thus required to possess land (plot) of minimum 20 meter x 24 metre dimension at the advertised location for construction of the LPG cylinder Storage Godown. This fact was also mentioned in the application form. In the application form the candidates were also required to state as to whether they were the owners of suitable land in the area advertised for LPG godown and showroom.

11. Admittedly, in the application form the petitioner did not give any answer to the aforesaid query. The petitioner also did not disclose the dimensions of the land possessed by him.

12. Since in his application, the petitioner had not disclosed the dimensions of the land offered by him, a letter dated 20.12.2012 was issued to the petitioner requiring him to provide the details of the land as per clause 9 of the application form. It was specifically mentioned in the said letter that in case the petitioner did not comply with the above by 10.1.2013, he would be treated to be ineligible.

13. According to the petitioner, after receiving the letter dated 20.12.2012 he personally went to the office of respondent No. 2 on 17.1.2013 and submitted the details. The petitioner he submitted a letter dated 2.1.2013 alongwith a map and the extract of Khasra and Khatauni of the land alongwith an affidavit. The application dated 2.1.2013 and the documents alleged to have been submitted by the petitioner have been jointly annexed as Annexure 2 to the writ petition.

14. Admittedly in the documents alleged to have submitted by the petitioner the dimensions of the land have nowhere been mentioned.

15. Since despite opportunity the petitioner did not disclose the dimension of the land offered by him the candidature of the petitioner was rejected by the respondents by an order dated 1.3.2013 on the ground that the petitioner had not disclosed the dimensions of the land offered by him.

16. The term of brochure are mandatory in nature. In order to select a suitable candidate for award of distributorship of LPG, one of the mandatory/requirement was that the candidate should possess land of specified dimension at the advertised location in order to enable him to construct a showroom and godown and unless the candidates disclosed the dimension of the land offered by them, it was not possible for the respondents to make any selection.

17. The learned counsel for the petitioner has relied upon a case in Archana Rastogi (Km.) Vs. State of U.P. and Others, , in support of his case.

18. In the said case one Km. Archana Rastogi had applied for being sent for Special BTC training course. In the application form Km. Archana Rastogi wrongly indicated her marks of High School as 256 instead of 356, as a result of which she was not found meritorious enough for selection. The learned Single Judge dismissed the writ petition by observing that it was for the petitioner to have immediately made a representation for correction of her marks in the application form and since the duration of the training was over, no relief could be granted to

the petitioner.

19. The Special Appeal, preferred by Km. Archana Rastogi was allowed on the ground that as per column-13 of the advertisement, the candidates were required to submit their high school and other certificates alongwith the application form in support of the declaration of the marks made by them in the application form. The high school examination certificate having been appended to the application form, the authorities ought to have verified the actual marks obtained by Km. Archana Rastogi and since this was not done the rejection of the Candidature of Km. Archana Rastogi was found to be arbitrary and was set aside.

20. The petitioner in the present case does not derive any benefit from the case law mentioned above. In the present case, the dimension of the land offered by the petitioner were neither mentioned by the petitioner in his application form nor they were mentioned in any document submitted by the petitioner in response to the letter dated 20.12.2012.

21. In the circumstance, we are of the opinion that there is no infirmity in the order dated 1.3.2013. The candidature of the petitioner has rightly been rejected.

22. The writ petition is devoid of merit and is accordingly dismissed. No order as to cost.