
(2011) 06 RAJ CK 0016
In the Rajasthan High Court
Case No : Civil Writ Petition No. 9377 of 2010

Chimanlal

APPELLANT

Vs

The Bharat Petroleum Corporation Ltd. and Another

RESPONDENT

Date of Decision : 29-06-2011

Acts Referred:

Citation : (2011) 06 RAJ CK 0016

Hon'ble Judges : Dinesh Maheshwari, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Dinesh Maheshwari, J.—An advertisement (Annex.6) came to be published in the daily newspaper, Rajasthan Patrika dated 17.10.2009, inviting applications for award of distributorship under the Rajeev Gandhi Gramin LPG Vitrak Scheme ("RGGLV") at different villages and towns in the State of Rajasthan to different category of persons as specified therein. Various eligibility conditions were also specified in the advertisement. For the present purpose, the relevant aspects are that the application to be made by the desirous candidate was to reach the concerned office latest by 16.11.2009 and the candidate was, inter alia, required to have, as on the date of the application, at least an amount of Rs. 2,00,000/- in the savings bank account in his name or in the names of the persons forming his "family unit".

2. The Petitioner, said to be answering to all the eligibility conditions and belonging to physically handicapped category, made an application for grant of such distributorship at Posalia, Tehsil Sheoganj, District Sirohi. According to the Petitioner, he sent the application on 11.11.2009 that was duly received by the Respondent Bharat Petroleum Corporation Ltd. ("BPCL") on 13.11.2009. Further, according to the Petitioner, on the date of application, a sum of Rs. 2,00,097/- was available in his savings bank account. The Petitioner has pointed out that after making of the application, the Respondents proceeded with the draw of lots wherein he was found successful but then, instead of issuing him the

authorisation, the Respondents issued the impugned communication dated 06.08.2010 (Annex.7) informing that as a part of selection process, a team of the officers carried out field verification of the credentials; and the information about the availability of funds as given by him in the application form "dated 11.10.2009" was found to be incorrect and as on the given date, the total amount from all sources was found to be Rs. 50,097/- only. The Respondents, therefore, stated that in view of the discrepancies found in the field verification, the candidature of the Petitioner was not found suitable for award of RGGLV.

3. The said communication dated 06.08.2010 (Annex.7) being the subject matter of challenge, the relevant contents thereof are reproduced as under:

Reference your application serial No. UT/POS/03 for the proposed Rajiv Gandhi LPG Vitrak [RGGLV] at Posaliyan, District Sirhoi [Raj.].

As you are aware that your candidature was selected in the draw held at Udaipur on 20.04.10 for the subject location.

As part of the selection process, as per the guidelines, a team of two Officers carried out the Field Verification of Credentials provided by you in the application. The following information as provided by you in your application from dated 11.10.2009 was found to be at variance during field verification.

The information given in the application - Item No. 10 [Item No. 10.2] is found to be at variance i.e. you have mentioned fund of Rs. 2,00,097/under item No. 10.2 of the application but on verification the total sum from all sources was found to be Rs. 50,097/-.

In view of the above discrepancies observed in the Field Verification of Credential, your candidature is not found suitable for award of RGGLV for the above referred location. Accordingly we shall be progressing the selection process for this location as per guidelines. Please note that no further correspondence in this regard shall be entertained.

4. The Petitioner has averred that the contents of this communication are factually incorrect inasmuch as the advertisement itself was issued on 17.10.2009 and the application was made on 11.11.2009 and not on 11.10.2009 as stated. The Petitioner has further placed on record as Annexure-8 a copy of his savings bank account maintained with Posalia Branch of the State Bank of India and it is submitted that a balance of Rs. 2,00,097/- was available as on the date of the application. It is, therefore, submitted that the Respondents have proceeded on the basic mistake regarding the amount available in the savings bank account of the Petitioner; and, as the required amount was indeed available in his account on the date of the application, the impugned communication deserves to be quashed and the Respondents deserve to be directed to award him the distributorship under RGGLV.

5. The Petitioner has also placed on record a copy of the representation said to have been made on 20.08.2010 (Annex.9) against the impugned communication

wherein it was pointed out to the Respondents that an amount of Rs. 2,00,097/- was available in his account on the date of the application and he had not stated any wrong fact in his application.

6. The Respondents related with BPCL, though served and having appeared through counsel, have not filed reply and it appears that the core facts are not even available for contention; rather it appears to be a case of basic mistake of facts on the part of the officers of the Respondent-BPCL.

7. The communication in question as reproduced hereinabove, specifically states that the information given by the Petitioner in the application "dated 11.10.2009" was found to be at variance on field verification. It appears that the Respondents have taken the said date i.e., 11.10.2009, to be the relevant date for the purpose of verification. It further appears from the copy of bank account placed on record that, of course, as on 01.10.2009, the balance in the Petitioner's account was Rs. 50,097.40 but then, he deposited an amount of Rs. 1,50,000/- on 05.11.2009 leading to the balance of Rs. 2,00,097.40. The application pursuant to the advertisement (Annex.6) was made by the Petitioner on 11.11.2009 and it is asserted that as on this date, the balance available in his account was the same i.e., above Rs. 2,00,000/-. The assertion on the part of the Respondents in the impugned communication about lesser balance i.e., Rs. 50,097/- appears to have been made with reference to the wrong reckoning date i.e., 11.10.2009. That it had been a fundamental mistake is but apparent from the very basic fact that advertisement itself was issued only on 17.10.2009. There could arise no question of the Petitioner making an application on 11.10.2009 in regard to the said advertisement. As per the said advertisement dated 17.10.2009, the application could have been made by 16.11.2009; and the applicant was required to have Rs. 2,00,000/- in balance with himself or in the family unit as on the date of the application. The Petitioner made the application within time i.e., on 11.11.2009; and, on that date, the balance available in his bank account was above Rs. 2,00,000/-, fulfilling the requirement stated in the advertisement.

8. The communication dated 06.08.2010, therefore, proceeding on basic mistake of fact, cannot be sustained and is required to be quashed. It would have been rather discreet on the part of the Respondents had they withdrawn the same after receipt of the representation from the Petitioner. It has, however, been fairly pointed out on behalf of the Respondents that in view of the pendency of this writ petition, they have not finalised the award of distributorship at the location in question in favour of anyone else. There has not been pointed out any other aspect operating against the Petitioner for selection under the advertisement in question. Hence, it appears just and proper to direct the Respondents to proceed further in the matter for award of distributorship to the Petitioner in accordance with law.

9. Accordingly, this writ petition is allowed; the impugned communication dated 06.08.2010 is quashed and set aside; and the Respondents are directed to

proceed further in the matter for award of RGGLV distributorship at Posalia to the Petitioner in accordance with law. No costs.