

(2024) 03 GAU CK 0024
In the Gauhati High Court
Case No : Writ Appeal No. 262, 325 Of 2023

Dayal Ch. Paul

APPELLANT

Vs

Indian Oil Corporation Ltds

RESPONDENT

Date of Decision : 12-03-2024

Acts Referred:

Citation : (2024) 03 GAU CK 0024

Hon'ble Judges : Vijay Bishnoi, J;Suman Shyam, J

Bench : Division Bench

Advocate : N. Saikia, K. Bhuyan, P. Bharadwaj

Final Decision : Dismissed

Judgement

Vijay Bishnoi, CJ

1. Heard Ms. N. Saikia, learned counsel appearing for the appellant in WA No.325/2023 as well as for the respondent No.4 in WA No.262/2023 and Mr. K. Bhuyan, learned counsel appearing for the appellant in WA No.262/2023 as well as for the respondent No.4 in WA No.325/2023. Also heard Mr. P. Bharadwaj, learned counsel appearing for the respondent IOCL.

2. These two intra-Court writ appeals are preferred against the judgment dated 13.06.2023 passed by the learned Single Judge in WP(C) No.8669/2019 and WP(C) No.5787/2019. The above referred two writ petitions were preferred by the appellant/writ petitioner Dayal Ch. Paul before the learned Single Bench.

3. The brief facts of the cases are that on 12.06.2018, a joint advertisement was published in a newspaper, namely, "Axomiya Pratidin" for appointment of LPG Distributorship in different places within the State of Assam by 3(three) Petroleum Companies. The said advertisement was in relation to 33 locations wherein applications were invited for appointment of LPG Distributorship from the interested persons.

In the above referred writ petitions, the appellant Dayal Ch. Paul has questioned

the appointment of appellant Dipti Das as dealer of LPG Distributorship at the location Jamlai, Village-Kalyanpur under Mahakuma Nagarbera, Part Chamria, within the District of Kamrup.

4. It is not in dispute that the appellant Dayal Ch. Paul (WA No.325/2023) and appellant Dipti Das (WA No.262/2023) along with several other candidates had applied for Distributorship of the above referred location.

5. As per the procedure, particularly, Clause 11.6 of the Unified Guidelines for Selection of LPG Distributorships of October 2017 (in short, "the Guidelines of October 2017"), inter-se priority was to be given in the draw of lots to the eligible candidates and three priority lists were to be prepared.

The first priority was to be given to the eligible candidates residing in the concerned Gram Panchayat of the advertised location; the second priority was to be given to the eligible candidates residing in the concerned Revenue Sub-Division of the advertised location and the third priority was to be given to the eligible candidates not residing in the concerned Gram Panchayat or in the concerned Revenue Sub-Division of the advertised location.

6. After the selection process, the respondent IOCL issued a notice for appointment of LPG Distributorship for the location in question and appointed the appellant Dipti Das as the dealer.

7. Being aggrieved with the same, the appellant Dayal Ch. Paul has preferred WP(C) No.5787/2019 claiming that the appellant Dipti Das is not the resident of the concerned Gram Panchayat area of the advertised location and therefore, her selection is liable to be set aside. He also prayed that he be appointed as the Distributor of the LPG Distributorship in question.

8. During pendency of the aforesaid writ petition, the respondent IOCL issued the Letter of Intent dated 11.03.2019 in favour of the appellant Dipti Das and therefore, the appellant Dayal Ch. Paul filed another writ petition, being WP(C) No.8669/2019 challenging the Letter of Intent issued in favour of the appellant Dipti Das.

9. The learned Single Judge has disposed of both the writ petitions while setting aside the selection/appointment of the appellant Dipti Das as the dealer of the LPG Distributorship in question vide impugned judgment dated 13.06.2023. However, the learned Single Judge has rejected the prayer of the appellant Dayal Ch. Paul to issue a direction for appointing him as the dealer of the LPG Distributorship in question.

10. The appellant Dayal Ch. Paul has filed WA No.325/2023, being aggrieved with the rejection of his prayer for appointment/selection as the distributor for LPG Distributorship in question. While rejecting the aforesaid prayer of the appellant/petitioner Dayal Ch. Paul, the learned Single Judge has observed as under:

"26. The learned counsel for the petitioner has strenuously argued that in view of the setting aside of the Letter of Intent dated 11.03.2019 and the Letter of Appointment dated 30.08.2019, this Court should direct the respondent IOCL authorities to issue the Letter of Intent in favour of the Petitioner. This Court is of the opinion that the said submission is totally misconceived, inasmuch as, Clause 11.4 of the Guidelines stipulates that in case there are more than one eligible applicant, selection of the LPG Distributorship will be done through computerized draw of lots from the eligible applicants for that location. It appears from the records that apart from the Petitioner and the Respondent No.4, there were 12 other eligible applicants. Under such circumstances, the question of issuing a direction to the Respondent IOCL authorities to issue a Letter of Intent and Letter of Appointment to the Petitioner do not arise. Further to that, it is also relevant to take note of that the other applicants are not parties to the instant writ petition and as such, such directions would be contrary to the constitutional norms."

However, the learned Single Judge has granted liberty to the respondent IOCL to bring the issue of appointment of LPG Distributorship in respect of the location in question to a logical conclusion in accordance with the Guidelines of October 2017.

11. Clause 11.4 of the Guidelines clearly provides that in case of more than one eligible candidate in selection for LPG distributorship for an advertised location, the same will done through computerized draw of lots from the eligible applicants.

It is noticed that in the present case, the appellant Dayal Ch. Paul and the appellant Dipti Das were not the only applicants, there were other candidates also, who are not parties to the writ proceedings and in such circumstances, the prayer of the appellant Dayal Ch. Paul to appoint him as the distributor of the LPG distributorship for the location in question cannot arise.

12. Having gone through Clause 11.4 of the Guidelines, we are of the view that the learned Single Judge has not committed any illegality in refusing to grant relief to the appellant Dayal Ch. Paul of issuing a direction to the respondent IOCL authorities to issue the Letter of Intent in his favour and to appoint him as the Distributor for the LPG Distributorship in question.

13. Hence, WA No.325/2023 is dismissed, as being devoid of any merit.

14. So far as WA No.262/2023 preferred by the appellant Dipti Das is concerned, the learned Single Judge, while taking into consideration the facts and circumstances of the case, has concluded that appellant Dipti Das cannot be termed as a resident of the Panchayat area concerned because the Standard Residence Certificate was issued in favour of the appellant Dipti Das only on 21.11.2018 by the Circle Officer, Nagarbera Revenue Circle certifying that she is residing in the concerned Panchayat area since 04.07.2018. The learned Single Judge has observed that since the last date for submission of the application form for appointment of the LPG Distributorship was 13.07.2018, whereas the

Standard Residence Certificate certifies that she is residing in the concerned Panchayat area since 04.07.2018, it cannot be said that she is a resident of the said Panchayat.

15. The learned Single Judge has also taken into consideration of the fact that the Registered Sale Deed in favour of the appellant Dipti Das was executed only on 12.07.2018 and the same cannot be termed as a proof that the appellant Dipti Das is a resident of that area. The learned Single Judge while placing reliance on the decision of the Hon'ble Supreme Court rendered in Bhagawan Dass and Anr. Vs. Kamal Abrol and Ors., reported in (2005) 11 SCC 66, has held that the respondent IOCL has illegally treated the appellant Dipti Das as a resident of the concerned Panchayat and has committed illegality in issuing the Letter of Intent as well as Letter of Appointment in her favour. While observing so, the learned Single Judge has quashed and set aside the letter of Intent dated 11.03.2019 as well as the letter of appointment dated 30.08.2019 issued in favour of the appellant Dipti Das vide the impugned judgment.

16. Learned counsel appearing for the appellant in WA No.262/2023 has failed to persuade us to take a contrary view in the matter. Hence, we do not find any merit in WA No.262/2023 and therefore, the same is also dismissed.