

(2015) 09 MP CK 0029

In the Madhya Pradesh High Court

Case No : Writ Petition Nos. 8089 and 7547 of 2014

Deepak Singh Dangi and Others

APPELLANT

Vs

Indian Oil Corporation Ltd. and Others

RESPONDENT

Date of Decision : 09-09-2015

Acts Referred:

Citation : (2015) 09 MP CK 0029

Hon'ble Judges : Sujoy Paul, J

Bench : Single Bench

Advocate : Vivek Jain, for the Appellant; A.K. Jain, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Sujoy Paul, J.

In view of commonality of issues involved, with the consent of parties, matters were analogously heard and decided by this common order.

Facts are taken from WP. 8089/2014

1. The petitioner has called in question the legality, validity and propriety of the Letter of Intent (LOI) dated 7.11.2014 and also the order dated 7.11.2014, whereby complaint preferred against respondent No. 4 is rejected by the authorities.

2. Brief facts of the case are that the petitioner, pursuant to an advertisement issued by the respondents for LPG Distributorship, submitted his application. Respondent No. 4 was also a candidate. The petitioner was not selected because he was not having any land at the advertised location.

3. It is urged that after rejection of petitioner's candidature, the respondents awarded the dealership in favour of respondent No. 4. The relevant location was earmarked for OBC Category. The dealership was to be allotted to those persons, who are residing in Bahadurpur but the respondent No. 4 is neither living in

Bahadurpur nor belongs to OBC Category. The petitioner preferred a complaint in this regard on 14.7.2014 (Annexure P/8). The application/candidature of respondent No. 4 is filed as Annexure P/9. Shri Vivek Jain, learned counsel for the petitioner contends that respondent No. 4 has enclosed the caste certificate (page 11 of application form), wherein he has shown that he belongs to "Momin" caste which does not come under OBC Category, yet benefit of OBC Category is given to him. He relied on "Samagra Portal", wherein other family members of respondent No. 4 were shown as General Category persons (Annexure P/10). He relied on Annexure P/11 to contend that only "Momin Julahas" fall within the ambit of "OBC". Shri Jain has also filed written submissions.

4. Shri Vivek Jain has taken pains to refer to various documents filed with his pleadings. However, it is gathered that bone of contention of Shri Jain is that in various documents the family members of the petitioner shown themselves to be of general category. The candidate's caste certificate does not reflect that he belongs to " Momin Julaha". The respondents have opposed the same and contended that the caste certificate is issued by the competent authority. There is no flaw in the decision making process. Thus, no interference can be made.

5. I have heard the parties and perused the record.

6. In the opinion of this Court, the argument of respondents has substance. This is trite law that administrative action can be called in question on limited grounds. If decision making process is vitiated, interference can be made. It is the decision making process which can be called in question in a writ petition and not the ultimate decision. The respondents have not committed any error in considering the caste certificate of private respondent. The Tehsildar issued certificate dated 11.07.2014 (Annexure R/4), verifying and certifying that original caste certificate was issued by him. The SDM, in response to respondent-company's letter, informed that caste certificate is genuine. This intimation was given to the petitioner. Thus, certificate is issued by competent authority. Once it is issued by the competent authority, the Corporation has not committed any error in not accepting the same. During the selection process, the Corporation was not required to go behind or beyond the caste certificate. If it is actually issued by competent authority, no fault can be found in the decision making process. The Apex Court in *K. Vinod Kumar Vs. S. Palanisamy and Others*, AIR 2003 SC 3171 : (2004) 1 CTLJ 436 : (2003) 8 JT 100 : (2003) 6 SCALE 753 : (2003) 10 SCC 681 : (2003) 2 UJ 1480 : (2004) AIRSCW 4260 : (2003) AIRSCW 4519 : (2004) 2 Supreme 589 : (2003) 6 Supreme 471 opined as under:--

"11. The law is settled that over proceedings and decisions taken in administrative matters, the scope of judicial review is confined to the decision making process and does not extend to the merits of the decision taken. No infirmity is pointed out in the proceedings of the Selection Board which may have the effect of vitiating the selection process. The capability of the appellant herein to otherwise perform as an LPG distributor is not in dispute. The High Court was not, therefore, justified in interfering with the decision of the Selection Board an

the decision of BPCL to issue the letter of allotment to the appellant herein"

This judgment is followed by this Court in WP No. 4498/2014 (Vikas Sharma v. Union of India and Others.).

7. In this view of the matter, I do not find any reason to interfere in this matter. If petitioner wants to challenge the caste certificate of private respondent herein, the remedy is elsewhere. Interference in selection process is declined.

With the aforesaid, petitions are disposed of.