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**(1997) 03 P&H CK 0030**

**In the Punjab And Haryana At Chandigarh**

**Case No : Civil Writ Petition No. 10103 of 1996**

Harjit Singh Gondara

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

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**Date of Decision : 14-03-1997**

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (1997) 116 PLR 467 : (1997) 3 RCR(Civil) 1

**Hon'ble Judges :** R.S. Mongia, J;M.L. Singhal, J

**Bench :** Division Bench

**Advocate :** M.L. Sarin and Rahul Rathore, for the Appellant; S.C. Kapoor and Ashish Kapoor, for the Respondent

**Final Decision :** Dismissed

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## **Judgement**

R.S. Mongia, J.—This judgment will dispose of C.W.P. No. 10103 of 1996 as well as C.W.P. No. 13088 of 1996.

2. Briefly, the facts of the case are that Indian Oil Corporation issued an advertisement, which was published in the Daily Tribune dated October 5, 1994, inviting applications for selecting a dealer for a retail outlet at Badli Kalan, district Faridabad. One of the conditions of eligibility was that the income of the family as defined in the application form should not be more than Rs. 50,000/- annually in the last financial year, i.e. 1993-94. Apart from other applicants, Harjit Singh Gondara, petitioner, in C.W.P. No. 10103 of 1996 and Ashok Kumar, petitioner in C.W.P. No. 13088 of 1996, were the applicants. The Oil Selection Board held interviews of the candidates on April 22, 1995. Harjit Singh Gondara was placed at No. 1, whereas Ashok Kumar was placed at No. 2 in the order of merit in the penal prepared by the Oil Selection Board. On May 5, 1995, Chief Divisional Manager, Indian Oil Corporation, Divisional Office Chandigarh, issued a letter of intent to Shri Harjit Singh Gondara that it was intended to offer the retail outlet dealership at Badli Kalan. He was asked to make arrangements for suitable plot of land of a particular dimensions and make all other arrangements regarding

finance etc for operating retail dealership outlet within a period of four months and make all efforts to commission the retail outlet within a period of eight months of the date of the issue of the intent. It is the case of the petitioner that he spent huge sum of money and time for purchasing land for the retail outlet and getting non-incumbrance certificate regarding the land and no objection certificate from the district authorities for installation of the retail outlet. A show cause notice was issued by the Oil Selection Board to Harjit Singh Gondara on August 21, 1995, that a complaint had been filed against him with documentary proof which showed that his annual income for 1993-94 exceeded Rs. 50,000/- and asking him to show cause as to why his allotment be not cancelled. Petitioner Harjit Singh Gondara sent a reply on September 2, 1995 refuting the allegations and maintained that his income did not exceed Rs. 50,000/- in the year 1993-94. Along with the reply he filed documents like Jamabandi of the year 1993-94 showing his land holding. Chakota agreement dated July 14, 1993, leasing out his land, Tehsildar's certificate dated August 31, 1995, showing the extent of his holding, application of one Chhaju Ram dated June 8, 1995, and Tehsildar's report thereon which had allegedly constituted evidence against the petitioner and another certificate of the Tehsildar regarding his income in the year 1993-94. On December 15, 1995, a personal hearing was also granted to Shri Gondara by the Oil Selection Board. On December 16, 1995, the Oil Selection Board issued any further document in support of his case as he may like to produce. He produced sale deed showing the purchase of land for petrol pump retail outlet, non-incumbrance certificate and no objection certificate issued by the district authorities for running the outlet apart from an affidavit. On March 26, 1996, it is stated that petitioner Gondara made enquiries regarding the fate of his allotment and he was informed by the officers of the Indian Oil Corporation that the Oil Selection Board had taken an adverse decision. He submitted an application for obtaining copy of the order of the Oil Selection Board. Again a reminder was sent demanding copy of the order but none was supplied. On April 20, 1996, petitioner Shri Gondara filed C.W.P. No. 5735 of 1996 praying that either respondent No. 3, i.e., Indian Oil Corporation should implement the letter of allotment of the Petrol Pump outlet site and if the same has been cancelled, copy of the cancellation order be supplied to him. A written-statement was filed on behalf of Indian Oil Corporation in that case that it had not taken any action so far to cancel the allotment of the petitioner. Consequently, on May 16, 1996, the writ petition was dismissed as premature. On June 26/28, 1996, the Indian Oil Corporation issued a letter to petitioner Harjit Singh Gondara that since he had submitted untrue, incorrect and false information regarding his income in the application form and the declaration of annual income submitted along with it, the letter of intent dated May 5, 1995, stood withdrawn/cancelled with immediate effect. Copy of this order has been appended as Annexure P-19 in the writ petition filed by Shri Gondara. This order has been impugned by him in the writ petition.

3. The other writ petition, as observed above, has been filed by Ashok Kumar

praying, inter alia, that since the first empanelled candidate has been disqualified, the letter of intent should be issued to the petitioner being second candidate in the panel in accordance with para 5.11 of the Manual for selection of Dealers and Distributors issued by the Indian Oil Corporation.

4. Learned counsel for the petitioner in Harjit Singh Gondara's case submitted that the impugned order of withdrawal/cancellation of intent issued by the Indian Oil Corporation dated June 26, 1996, copy Annexure P-19, is liable to be quashed as it gives no reasons. The Oil Selection Board gave no opportunity to the petitioner to rebut the evidence; the show-cause notice dated August 21, 1995, copy Annexure P/9 issued by the Oil Selection Board gives no details on the basis of which the letter of intent was sought to be cancelled; the hearing had to be given by the Indian Oil Corporation and not by the Oil Selection Board as it is the Indian Oil Corporation that had given the initial letter of intent which was sought to be cancelled. The complainant, Krishan Kumar, is no body else but the employer of Ashok Kumar, petitioner in the other case and it is he who had applied for the out-let in the name of the his employee, the respondents are estopped from cancelling the letter of intent inasmuch as the petitioner has spent a huge amount in acquiring land and other machinery etc. for the installation of petrol-pump.

5. Notice of motion was issued. Detailed reply has been filed on behalf of the respondents.

6. After hearing learned counsel for the parties, we are of the view that there is no merit in the writ petition. In the application form that was to be submitted by the applicants the allotment of out-let, the relevant entry for this case is clause number 9 which is reproduced as under:

"Please give details in the Affidavit as per Appendix A duly attested by a Magistrate/Judge or Notary Public: The candidate should carefully note that the declaration of Annual Income is an important document, which has a vital bearing on his/her eligibility for dealership/distributorship. If any information given by him/her in the declaration of Annual Income is found to be untrue, incorrect or false, his/her application is liable to be rejected at any stage. In case letter of intent has been issued or the dealership has been commissioned, the same is liable to be withdrawn or the dealership/distributorship may be terminated. In such cases, the candidate/dealer shall have no claim whatsoever against Indian Oil Corpn. Ltd."

Broad guidelines, but not exhaustive, obtaining at present to verify income from various sources are given below so that the applicant should exercise all care in giving the precise information under each column of the Income Declaration. The candidate should bring all original documents for verification at the time of interview."

The affidavit which the petitioner Shri Gondara had filed with the. application mentions that his family income from all sources did not exceed Rs. 50,000/- per

annum and while giving the statement of annual income which was attached to the affidavit it was mentioned that the same was for the year 1992-93 though it was required to be given for the year 1993-94. The certificate from the revenue authorities which was initially attached with the application showing the income of the petitioner also did not mention as to for which year the income had been given. The petitioner had been issued a show-cause notice. He filed a reply thereto. Before the Oil Selection Board, he had produced the following documents:

1. Details of Holding alongwith report of Naib Tehsildar, Jaitu dated 31.8.1995.
2. Photo copy of Agreement for Chakota dt. 14.7.1993.
3. Copy of application of Chajju Ram dt. 8.6.1995.
4. Copy of statement of Lumberdar and Halqa Patwari of village Gondara.
5. Copy of an application dated 8.11.1994 containing endorsement of Naib Tehsildar, Jaitu and Tehsildar, Faridkot dated 18.4.1995.
6. Copy of Jamabandi.
7. Copy of Electricity Bills;
8. Copy of receipt of Manila/Revenue."

He had also been given opportunity to produce documents. He subsequently submitted an affidavit dated December 16, 1995. Copy of the application of Shri Chhaju Ram dated June 8, 1995, statement of Lambardar and Halqa Patwari, application dated November 8, 1994, with the endorsement of the Naib Tehsildar of Jaito and Tehsildar of district Faridkot dated April 18, 1995, filed no objection certificate dated August 9, 1995, for setting up of retail outlet, certificate of non-incumbrance and sale deed for the land alleged to have been purchased for installation of petrol pump. Even personal hearing was given to the petitioner. The Oil Selection Board also had got verified from the Tehsildar the correctness of the certificates regarding the income shown from the land owned by the petitioner and in a detailed order dated March 15/20, 1996, running into almost twelve typed pages came to the conclusion that the income of Shri Gondara exceeded Rs. 50,000/- in the year 1993-94 which fact he had concealed and was not eligible for the award of the retail outlet dealership under the open category and directed the Company to withdraw the letter of intent issued to him and to proceed in accordance with the provisions of Manual for selection of dealership and distributorship. This is the basis of the cancellation of letter of intent by the Indian Oil Corporation. The impugned order dated June 26/28, 1996, copy Annexure P-19, cancelling the letter of intent clearly mentions that the complaint against the petitioner, Shri Gondara had been investigated by the Oil Selection Board and it had come to the conclusion that the petitioner's income exceeded Rs. 50,000/- per annum for the year 1993-94. The information regarding the income given by him in the application form and declaration of annual income

had been found to be untrue, incorrect and false and, therefore, the letter of intent was being cancelled withdrawn. The reasons are given in the impugned order of cancellation of letter of intent. As to how those conclusions were reached are contained in the order of the Oil Selection Board to which reference has already been made above. Oil Selection Board is headed by a retired Judge of this High Court (with two other members). It cannot be said that the impugned order does not give any reason. We concur with the reasoning given by the Oil Selection Board which has discussed the entire evidence in detail. Fulllest opportunity was given to petitioner Shri Gondara to produce the evidence and he was also even given personal hearing. The show cause notice mentions the alleged grounds for the cancellation of the intent and the documents on the basis of which the show cause notice was given were filed by the petitioner himself before the Oil Selection Board. The initial recommendations are given by the Oil Selection Board for the issuance of the letter of intent and it was that very Board which after examining the complaint, the evidence and after giving opportunity of personal hearing directed that the letter of intent be cancelled. It was Oil Selection Board that had to give hearing to the petitioner and not the Indian Oil Corporation. There is no question of estoppel in the case especially in view of Clause 9 in the application form that if at any time it is found that the letter of intent had been obtained by concealing facts or giving wrong facts at any stage, not only that the letter of intent could be cancelled but even the dealership itself could be cancelled. It is wholly immaterial as to who is the complainant. Even if the Oil Selection Board or the Indian Oil Corporation suo moto had come to know that petitioner Gondara had filed a wrong declaration concealed facts or had misrepresented, the letter of intent/dealership " could be cancelled in accordance with law.

7. For the foregoing reasons, we find no merit in C.W.P. No. 10103 of 1996, which is hereby dismissed.

8. So far as the other writ petition is concerned, it may be observed here that the Oil Selection Board itself while directing the cancellation of the letter of intent issued to Shri Harjit Singh Gondara had observed in its order dated March 15/20, 1996 that "the Company is, therefore, directed to withdraw letter of intent issued to him (i.e. Mr. Gondara) and to proceed in accordance with the provisions of Manual for Selection of dealership and distributorship". Consequently, this writ petition is disposed of with a direction to the official respondents to proceed for allotment of the outlet in accordance with the provisions of Manual for Selection of Dealership and Distributorship after the earlier allotment in favour of Shri Gondara has been ordered to be cancelled.