
(2013) 03 RAJ CK 0067

In the Rajasthan High Court

Case No : Civil Special Appeal (Writ) No. 390 of 2012

Indian Oil Corporation and Others

APPELLANT

Vs

Shyam Sunder

RESPONDENT

Date of Decision : 04-03-2013

Acts Referred:

Citation : AIR 2013 Raj 170 : (2013) 2 WLN 438

Hon'ble Judges : Amitava Roy, C.J.; Arun Bhansali, J

Bench : Division Bench

Advocate : O.P. Mehta, for the Appellant; Deepika Vyas, for the Respondent

Judgement

Amitava Roy, C.J.—Being aggrieved by the judgment and order dt. 16.03.2012 passed in S.B. Civil Writ Petition No. 2075/12 sustaining the respondent-writ-petitioner's impugment of the rejection of his candidature for LPG distributorship in Pachpadra District Barmer and Bikaner-II vide communications dt. 11.02.2012 and 14.02.2012 respectively to that effect, the appellant-Indian Oil Corporation (for short, hereafter referred to as "the Corporation") is in appeal. We have heard Mr. O.P. Mehta, learned counsel for the appellants and Smt. Deepika Vyas, learned counsel for the respondent.

2. The appellant-Corporation had issued an advertisement dt. 13.03.2010 inviting applications for appointment of its LPG distributors amongst others at Bikaner-II and Pachpadra District Barmer. In the advertisement, it was inter-alia mentioned that the candidate to be eligible ought to conform to the multiple dealership/distributorship norms signifying that his/her family unit was not holding any dealership/distributorship in any public sector undertaking or company. In the format of the affidavit to this effect, it was to be declared in the following terms:-

3. In the prevailing guidelines pertaining to eligibility and governing the process, it was clearly stipulated amongst others that an application would be treated as incomplete if such affidavit is not as per the format. The advertisement

mentioned 12.04.2010 to be last date for submission of applications. On 05.04.2010, a corrigendum was issued by the Corporation incorporating the following amendments in the affidavit:-

4. The corrigendum referred to the modifications made therein and required that the applications ought to be in conformity therewith. Special mention was made with regard to the amended format of the affidavit. Thereby, the last date for receipt of applications was extended to 04.05.2010. Admittedly, the respondent-writ petitioner submitted his applications on 03.05.2010, however, with the affidavit containing the contents published in the earlier advertisement dt. 13.03.2010 in the following terms:-

5. As the applications were found not to be in compliance of the stipulations mentioned in the corrigendum dt. 05.04.2010, the same were rejected by orders referred to hereinabove. Being aggrieved, he approached this Court.

6. Whereas the respondent-writ petitioner contended that the affidavit accompanying his applications was in substantial compliance of the format carried by the corrigendum dt. 04.05.2010 and thus, rejection thereof was illegal and arbitrary, it was asserted in substance by the Corporation in its affidavit that having regard to the multiple dealership/distributorship norms, the modified format of the affidavit in connection therewith and the consequence of omission of declaration in terms thereof, the respondent-writ petitioner's applications were rightly rejected.

7. The learned Single Judge, however, being principally of the view that the affidavit filed by the respondent-writ petitioner did not suffer from any invalidating infirmity and that the eligibility of a candidate was to be determined on the basis of documents appended to the application, interfered with the orders of rejection.

8. The learned counsel for the appellants has argued that as admittedly the respondent-writ petitioner had inexplicably failed to submit the affidavit as contained in the corrigendum dt. 05.04.2010, in the face of the bar of multiple dealership/distributorship uniformly applicable to all aspirants, the rejection of his applications was valid and that the learned Single Judge had fallen in grave error in interfering therewith.

9. In reply, the learned counsel for the respondent-writ petitioner has urged that he being not conversant with the subtle variations in the format of the affidavit, his candidature ought not to have been rejected, more particularly, in face of the fact that the affidavit submitted by him was substantially similar to the one circulated vide corrigendum dt. 05.04.2010.

10. On a consideration of the pleadings of the parties and arguments advanced, we are unable to persuade ourselves to sustain the plea taken on behalf of the respondent-writ petitioner. The advertisement and the corrigendum in unmistakable terms did prescribe a bar against multiple dealership/

distributorship requiring a declaration as per the affidavit in the format prescribed to the effect that he/she or any of his/her family member was not holding any dealership/distributorship in any public sector undertaking or company. A plain reading of the two extracts corresponding to the two formats of the affidavit would demonstrate the variations in the salient features thereof. The respondent-writ petitioner, who was married at the time of offering his candidature, did admittedly submit his affidavit in the format as required by the advertisement dt. 13.03.2010, which is distinctly different from the one contained in the corrigendum dt. 05.04.2010. The fact that he had submitted his applications on 03.05.2010, a day prior to the last date for submission of applications under the corrigendum dt. 05.04.2010, is a clear indicator of the fact that he was aware thereof. It is, thus, too farfetched for this Court to accept his plea of lack of acquaintance with the new format of the affidavit on the aspect of multiple dealership/distributorship. The guidelines governing the process clearly enjoined that an application would be construed to be incomplete if the affidavit pertaining to the norms of eligibility is not as per the format prescribed. Demonstrably, the affidavit filed by the respondent-writ petitioner, as a married candidate, was not in conformity with the one required to be submitted as per the corrigendum dt. 05.04.2010. To reiterate, the bar of multiple dealership/distributorship at all relevant time did have a decisive bearing on the eligibility of a candidate. In the wake of the above, we find ourselves in respectful disagreement with the conclusions recorded by the learned Single Judge. The impugned judgment and order, in our comprehension, is therefore not sustainable in law and on facts and is liable to be interfered with. Ordered accordingly.

The appeal is thus allowed. No costs.