
(2018) 08 RAJ CK 0170
In the Rajasthan High Court
Case No : Spl. Appl. Writ No. 503 of 2009

Indian Oil Corporation Limited @APPELLANT@Hash Smt. Vimla

Date of Decision : 29-08-2018

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2018) 08 RAJ CK 0170

Hon'ble Judges : NIRMALJIT KAUR, J;DINESH MEHTA, J

Bench : Division Bench

Advocate : Sajjan Singh, Hemant Jain, Rajat Dave

Final Decision : Dismissed

Judgement

Dinesh Mehta, J

The instant appeal is directed against the judgment and order dated 19.12.2008, passed by learned Single Judge, allowing the writ petition filed by the petitioner "respondent herein.

Concise facts for the purpose of disposal of the appeal at hands are that the petitioner was declared as a select candidate for grant of dealership for

petroleum product at Village Ren, District Nagaur in the women category. Pursuant whereof, the appellant No.2, sent a communication to the

competent authority, requesting to grant NOC for setting up a retail outlet in respondent's favour, referring her to be an LOI holder. The Gram

Panchayat Ren in turn issued an "NOC" for establishment of retail outlet.

In the meanwhile, Laxmi Devi "2nd empanelled candidate for the subject location, lodged a complaint and thereafter preferred a writ petition being

SB Civil Writ Petition No.5912/2005, which was ultimately dismissed by this Court, vide its judgment and order dated 24.7.2006.

During the pendency of the aforesaid writ petition and so also after dismissal

thereof, the writ petitioner constantly requested the Corporation to issue the letter of intent and to complete other formalities.Â

Before the needful could be done, fresh guidelines came to be issued on 30.11.2006, revising the Sale Volume Norms.

After publication of the new guidelines, the appellant Corporation refused to grant LOI to the petitioner under the guise of clause (b) of Condition

No.3.2.2 thereof; for which she invoked writ jurisdiction of this Court, under Article 226 of the Constitution of India.

Noticing the aforesaid facts and the fact that the writ petitioner was nowhere at fault, learned Single Judge allowed the writ petition, holding that the

new policy framed on 30.11.2006 cannot be made applicable retrospectively.

Calling in question the judgment dated 19.12.2008, learned counsel for the appellants contended that merely because the petitioner has been selected, it

did not give her right to claim dealership until and unless a letter of intent had been issued in her favour.Â He further argued that as the LOI had not

been issued in favour of the petitioner on the date of issuance of new guidelines dated 30.11.2006, the refusal to grant LOI to the writ petitioner was

perfectly just and proper.Â It has also been argued that after promulgation of new guidelines, the selection in the cases wherein LOIs have not been

issued, were required to be cancelled and readvertised as per Clause (b) of point No.3.2.2 of the guidelines dated 30.11.2006.

In support of his arguments, learned counsel for the appellants cited the judgment of Honâ??ble the Supreme Court in case of M/s Sethi Auto

Service Station & Anr. Vs. Delhi Development Authority & Ors., reported in AIR 2009 SC p.904, particularly para No.27 thereof and argued that

writ petitioner cannot claim any right when a new policy has come.

Per contra, learned counsel for the respondent supporting the judgment of learned Single Judge contended that it has rightly been held that the revised

guidelines published on 30.11.2006 cannot be made applicable, in the instant case.Â In addition thereto, he submitted that after the result of interview

was declared in August, 2005, the appellant No.2 sent a letter dated 25.09.2005 to the Collector seeking an NOC and he also elicited a No Objection

Certificate from the concerned Gram Panchayat referring the respondent as an LOI holder.Â He submitted with pains that though there was no

interim order by this Court in the writ petition No.5192/2005, filed by the

candidate at Sl.No.2, the appellant Corporation adopted a lackadaisical attitude.Â The appellant Corporation neither granted LOI in respondent's favour nor proceeded with the selection process.Â

Learned counsel for the respondent notwithstanding his arguments that the selection of the respondent after due process cannot be annulled, merely because new Sales Volume Norms have been published, emphatically submitted that it cannot be said that the writ petitioner was at fault in any manner.Â As a matter of fact, the appellant Corporation itself was in the wrong. He contended that had the appellant Corporation proceeded at required pace, respondent's retail outlet could have come up by the end of 2005 itself, as the requisite NOC from Gram Panchayat Ren had been issued in November, 2005 itself.

We have heard learned counsel for the parties, perused the material available on record and considered the submissions made and the case law cited.

The undisputed facts of the case at hands are that the writ petitioner was duly selected and the appellant Corporation itself had considered and

referred her to be an "LOI holder".Â It may be true that the formal LOI had not been issued; but for all practical purposes, she having stood at

merit No.1 in the selection process, deserves to be considered and held as an "LOI holder", albeit, subject to grant of NOC from the competent

authority.Â It was rather incumbent upon the appellant Corporation to have issued a letter of intent, for which the respondent had been desperately

trying. The subject guidelines have come as late as on 30.11.2006, by which time, not only the complaint, even the writ petition filed by Smt. Laxmi

Devi had been dismissed (on 29.05.2006). The Corporation, for the reasons best known to it, sat tight over the matter.

In the aforesaid factual backdrop, the action on the part of the appellant Corporation in not proceeding in furtherance of the petitioner's selection,

is nothing less than an arbitrary action and rejection of her candidature, a wrongful application of Clause 3.2.2. (b) of the Circular dated 30.11.2006.

In this regard, we would like to add that as the name suggests, the guidelines of 30.11.2006 are the guidelines for setting up new retail outlets. The

Sales Volume Norms prescribed vide Point No.2.3.3 of the circular dated 30.11.2006 makes it abundantly clear that the same are for setting up new

retail outlets.Â In the considered opinion of this Court, the stand of the appellant

Corporation is illegal and arbitrary.Â The case of the writ petitioner cannot be covered under the category of "Locations where interviews have been held but LOIs have not been issued".

The judgment of Hon'ble Supreme Court rendered in case of M/s. Sethi Auto Service Station (supra) is of little avail to the appellants, as the said case involves entirely different facts, inasmuch as the dealer therein had asserted his right of legitimate expectation based on the earlier policy, which contention stood repelled by Hon'ble the Supreme Court.Â In the present case, the respondent " writ petitioner has not based her case on the principle of legitimate expectation or promissory estoppel; rather her case has been that having been duly selected, she ought to have been issued LOI and non grant of LOI was entirely attributable to the appellant Corporation; and that the entire selection process has wrongly been cancelled.

As an upshot of discussion aforesaid, we neither find any error in the order impugned nor any substance in the present appeal.

The intra-court appeal is thus dismissed.