
(2017) 01 AHC CK 0214
In the Allahabad High Court
Case No : C.M.W.P. No. 257 of 2017

Kamlendra Kumar Singh

APPELLANT

Vs

I.O.C.L.

RESPONDENT

Date of Decision : 06-01-2017

Acts Referred:

Citation : (2017) 2 ADJ 728 : (2017) 1 AllWC 578

Hon'ble Judges : Amreshwar Pratap Sahi and Sanjay Harkauli, JJ.

Bench : Division Bench

Advocate : S.P. Singh "Somvanshi", Advocate, for the Petitioner; Manish Jauhari, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

Amreshwar Pratap Sahi and Sanjay Harkauli, JJ.— Heard learned counsel for the petitioner at length and Sri Manish Jauhari, learned counsel for the Indian Oil Corporation.

2. The petitioner was an applicant for Kisan Gramin Sewa Kendra Retail Outlet Dealership. The application according to the petitioner was complete in all respects as per the Brochure and the information tendered in the affidavit was also complete.

3. Later on, while processing the application of the petitioner, the Corporation found that there was some unclarity with regard to the status of availability of funds in the savings bank account of the petitioner as disclosed in the affidavit and, therefore, the petitioner was called upon to submit the exact detail of availability of funds.

4. It is undisputed by the petitioner that the petitioner had got the affidavit sworn that was to be filed along with the application on 15.11.2014. The application was filed on 17.11.2014.

5. Further, the undisputed status of bank account funds as on 15.11.2014 reflect

that the petitioner was in possession of Rs.11,60,000/- as against the minimum requirement of Rs.12,00,000/-. However, the petitioner deposited a sum of Rs.45,000/- immediately thereafter and the balance of the petitioner's account as on 17.11.2014 clearly rose to 12,05,000/-. Thus, on the date of submission of the application form the petitioner had the requisite funds.

6. The application of the petitioner for the said dealership has been rejected on the ground that the petitioner was not eligible inasmuch as, on the date of the affidavit that had been sworn in support of the application, the petitioner admittedly did not have the minimum of Rs.12,00,000/- in his bank account as the funds that was prescribed under the Brochure.

7. It is questioning this decision dated 09.11.2016 that the present writ petition has been filed. The contention of the learned counsel for the petitioner is that as per Clause 11 (ka) of the affidavit, the requirement is that the petitioner should declare that he has been given to understand that as on the last date of application, he should be in possession of the entire funds and not as on the date of swearing of the affidavit.

8. He therefore submits that the Brochure which prescribes that the funds mentioned in the application form should be available with the applicant as on the date of the affidavit, is clearly not a condition which would render the petitioner's candidature ineligible inasmuch as, as per disclosure in the affidavit itself, the petitioner was required to give an understanding relating to the possession of the funds as on the date of the application.

9. It is this dispute which has been brought forward contending that as per the condition of the Brochure, the petitioner has not violated any of the terms of the Brochure and rather he has complied with the terms and conditions as indicated in the Brochure by filing a correct affidavit. In sum and substance the information tendered by the petitioner in the affidavit was correct and rather the said information was substantiated and supplemented by the subsequent submission of the information with regard to the status of bank account of the petitioner.

10. On the other hand, Sri Manish Jauhari submits that the possession of the funds as on date of the affidavit is mandatory as per the Brochure itself and, therefore, the petitioner cannot now take a stand that he was not aware of the terms of the Brochure. He further submits that incorrect information in the affidavit would render the candidature of the petitioner as ineligible in terms of the Brochure itself inasmuch as, the affidavit clearly indicates that the information given which is found to be incorrect would render the candidature of the petitioner to be ineligible.

11. We have considered the submissions raised and we find that so far as the Clause 11 (ka) is concerned, the same clearly recites that the candidate has to declare that he has been given to understand that the funds should be available to him as on the date of the application. In this view of the matter, the aforesaid

aspect has to be examined by the respondents that if the said disclosure according to the respondents is in conflict with the conditions of the Brochure, then whether the petitioner could still be declared ineligible treating the information given in the affidavit to be incorrect.

12. The information being treated as incorrect and the candidature being ineligible would, therefore, be dependent upon the inter-play between the recital contained in the affidavit in Clause 11 (ka) along with the terms and conditions of the Brochure.

13. Consequently, in order to resolve the controversy, it would be appropriate that the petitioner approaches the authority concerned in terms of Clause (xiv) of the General Conditions pertaining to the advertisement read with Clause 17 where any such grievance or redressal can be availed of from the competent authority.

14. Consequently, we dispose of this writ petition with liberty to the petitioner to raise his grievance before the respondent No.1 who shall proceed to examine the same that shall be processed in accordance with the Regulations and the decision will be given as expeditiously as possible preferably within six weeks from the date of presentation of a certified copy of this order before him.

15. The petition is disposed of with the said directions.