**(2015) 10 PAT CK 0022**

**In the Patna High Court**

**Case No :** Civil Writ Jurisdiction Case No. 5252 of 2011

Kumar Vagish APPELLANT

Vs

Bharat Petroleum Corporation Limited and Others RESPONDENT

**Date of Decision :** 01-10-2015

**Acts Referred:**

**Citation :** (2015) 10 PAT CK 0022

**Hon'ble Judges :** Vikash Jain, J

**Bench :** Single Bench

**Advocate :** Pushkar Narain Shahi, Senior Advocate, Patanjali Rishi and Sanjeet Kumar Singh, for the Appellant; Sanjay Singh, Advocates for the Respondent

**Final Decision :** Dismissed

## Judgement

Vikash Jain, J—Heard Mr. Pushkar Narain Shahi, learned Senior Counsel for the petitioner, Mr. Sanjay Singh, learned counsel for the Respondent Corporation and Mr. Durgesh Kumar Singh, learned counsel for the Respondent No. 4.

2. The present writ petition has been filed for a direction to the Respondent Corporation to issue a letter of intent in favour of the petitioner, for quashing the letter No. PT-230 Muzaffarpur dated 28.03.2011 (Annexure-9) rejecting his candidature, and for quashing the letter of intent issued in favour of Respondent No. 4.

3. Pursuant to an advertisement dated 17.10.2007, the petitioner applied for LPG distributorship for the advertised location at Muzaffarpur and after due consideration, he was empanelled at first position having secured 93.5 marks. The petitioner had offered a piece of land located at Bochahan, Muzaffarpur standing in his name, but in view of some problem with regard to the approach to the plot, an alternative plot of land was offered which however was subsequently withdrawn. The petitioner''s candidate finally came to be rejected in terms of the impugned letter dated 28.03.2011 for two reasons namely, (a) that the land offered for LPG godown was not accessible as it was not directly

connected through motorable road, and (b) that the aggregate annual income as declared in the petitioners affidavit was Rs. 10,41,552/- whereas the Income Tax return disclosed an annual income of only Rs. 6,99,645/-.

4. Learned counsel for the petitioner submits that considering the problem with the approach to the plot of land, he had made efforts and been able to secure lease rights for right of way leading up to the plot and the same ought to be considered. It is further submitted that the condition with regard to income disclosed in the income tax return and the application form was immaterial, considering that no extra marks would be awarded over and above the entitlement of marks on the basis of the lower income shown.

5. Learned counsel for the respondent Corporation on the other hand, relies on the specific terms of the brochure enclosed with the counter affidavit, to point out that the Corporation would decide the suitability of the land on the basis of documents submitted along with the application. The term with regard to construction of godown/show room on the site as mentioned in the application form was stated in the brochure as follows:

"The applicants who readily have suitable godown/land for construction of godown for storage of filled LPG cylinders and shop/land for construction of shop for HP Gas Showroom for setting up of HP GAS Distributorship or have a firm commitment from the land owner for purchase/lease or can arrange it are awarded marks. The details given along with the application alone will be considered for this purpose and the applicant will not be given any opportunity to offer any other land subsequently (even at the time of interview). For this purpose, the land offered by the family members (as defined in multiple distributorship norm) would also be considered as belonging to the applicant subject to attaching the consent of the concerned family members.

IPC will decide the suitability of the land on the basis of the documents submitted along with the application.

However after selection of the applicant, physical verification of the godown land/ godown as well as the showroom will be undertaken. In the event it is found that there is variance in the details submitted with the application form and/or the plot is not found suitable for construction of godown or the godown not approved by the CCOE the allotment of the distributorship will stand automatically cancelled."

6. It is therefore submitted that the details given in the application form were alone required to be considered and any improvement or development subsequent to filing of the application form would not be permissible being specifically barred. The Respondent Corporation has therefore, rightly rejected the candidature of the petitioner on this score alone, apart from the fact that there is no denial with regard to discrepancy in the figures of income declared in the affidavit and the Income Tax return of the petitioner, which amounted to a misstatement on the part of the petitioner.

 

7. Having heard the parties and considering the materials on record, this Court does not find merit in the writ petition. The terms of the brochure with regard to the land offered for the purpose of godown/show room were clear and specific, and all particulars in detail relating to the same were required to be stated at the time of application itself. The brochure clearly provided that in case of variance in the details of land submitted in the application form and/or the plot was found not suitable for construction of godown, the allotment of distributorship would stand automatically cancelled. No fault can therefore be found in the action of the Respondent Corporation in rejecting the candidature of the petitioner.

8. The writ petition stands dismissed.

 