

**(2016) 02 KAR CK 0373**  
**In the Karnataka High Court**  
**Case No : W.P. No. 60967/2010 (GM-RES)**

Laxman

APPELLANT

Vs

Hindustan Petroleum Corpn. Ltd. and Others

RESPONDENT

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**Date of Decision :** 26-02-2016

**Acts Referred:**

Constitution of India, 1950 — Article 226, Article 227

**Citation :** (2016) 02 KAR CK 0373

**Hon'ble Judges :** H. Billappa, J.

**Bench :** Single Bench

**Advocate :** Arun L. Neelopant, Advocate, for the Appellant; Mallikarjun C. Basareddy, Advocate, for the Respondent

**Final Decision :** Allowed

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## Judgement

H. Billappa, J.—1. In this writ petition under Articles 226 and 227 of the Constitution of India the petitioner has called in question the selection list vide Annexure-H and has prayed to set aside the reply dated 21.1.2010 issued by the 1st respondent vide Annexure-K and to direct the 1st respondent to call for a fresh interview.

2. In the impugned selection list at Annexure-H, the respondent No. 4 is shown at Sl. No. 1 and the petitioner is shown at Sl. No. 9. The petitioner has given representations dated 13.10.2009 and 8.12.2009 requesting to hold an enquiry. The 1st respondent has issued communication dated 21.1.2010 as per Annexure-K. Therefore, this writ petition.

3. Briefly stated the facts are;

"The 1st respondent invited applications for the dealership of HPCL retail outlet between Gokak cross and Mudalagi in Belgaum District. The petitioner applied for the dealership with all necessary documents. He also produced a consent letter of his wife dated 24.7.2009 in respect of the land bearing TMC No. 40 and letter dated 24.7.2009 of one Prakash Sonwalkar in respect of land bearing TMC No.

39."

4. Thereafter, the 1st respondent informed the petitioner through telegram that site inspection will be done on 17.8.2009 at 16.00 hours. The petitioner contacted one Girish who is the sales officer. At that time, the petitioner was told that inspection of both the sites will be done at 4.00 p.m. as scheduled. Thereafter, the petitioner was told that his sites were not inspected for some technical reasons. The petitioner gave representation requesting the 1st respondent to inform him as to when his sites will be inspected so that the petitioner can be present at the time of inspection. Thereafter, telegram was sent to the petitioner. It was received by the petitioner on 1.9.2009 at about 10.15 a.m. It was stated in the telegram that the sites will be inspected on 1.9.2009 at 11.30 a.m. Accordingly, the petitioner's sites have been inspected by the officials of the 1st respondent. After due inspection and being satisfied about the suitability of the sites, the petitioner was issued a letter by the HPCL calling upon the petitioner to appear for interview on 29.9.2009 at 9.00 a.m. The petitioner attended the interview. At that time, all the records of the petitioner were examined by the concerned officials. The petitioner was told that all the records are found to be correct. On the same day, the selection list as per Annexure-H was published. The name of the petitioner was shown at Sl. No. 9. No marks were allotted to the petitioner for capability to provide the infrastructure and facility and to arrange finance and also under the head of fixed/immovable assets though the petitioner had produced all the documents. The petitioner gave representation to the customer service cell of HPCL Belgaum and also the 1st respondent to conduct enquiry by giving opportunity to the petitioner to produce the documents. It is stated, all of a sudden the 1st respondent sent communication as per Annexure-K stating that as per the technical committee report the sites offered by the petitioner are outside the advertised stretch and therefore the committee rejected the request. Further, it is stated that fixed/immovable property valuation report submitted by the petitioner is in the name of his wife and the petitioner has not submitted the consent letter from his wife as required under the selection guidelines. The selection of 4th respondent is illegal and therefore cannot be sustained in law. Therefore, the petitioner has prayed for quashing of Annexure-H and also the communication dated 21.1.2010 vide Annexure-K.

5. The first respondent has filed statement of objections contending that the writ petition is not maintainable. It is stated, in response to the notification published on 24.2.2008 the petitioner has applied along with the others. It is denied that the petitioner filed an application along with the consent letter of his wife. It is stated, all the applicants were called for the interview. The petitioner and the respondent No. 4 attended the interview. Thereafter, the respondent issued the empanelled list as per Annexure-H showing the respondent No. 4 at Sl. No. 1 and petitioner at Sl. No. 9. The respondent No. 4 had secured 90.26 marks and the petitioner had secured 53 marks out of 100. Thereafter, the petitioner gave a representation. The first respondent considering the representation issued letter

dated 21/1/2010 stating that the site which was offered by the petitioner is outside the advertised stretch and no marks were awarded for fixed/immovable property on the ground that the said properties were in the name of his wife and there was no consent letter. The communication issued by the first respondent as per Annexure-K is in accordance with law.

6. It is stated, pursuant to the selection of the 4th respondent, the first respondent has issued letter of intent for the retail outlet dealership at Gokak cross towards Mudalagi within 3km. The allegations made by the petitioner are false and incorrect. The petitioner had obtained only 53 marks out of 100 marks. The respondent No. 4 had obtained 90.26 marks. Therefore, the first respondent has prayed for dismissal of the writ petition.

7. The learned counsel for the petitioner contended that the selection list at Annexure-H and the impugned communication at Annexure-K cannot be sustained in law. In response to the advertisement issued by the 1st respondent, the petitioner had produced all the necessary documents. Thereafter, the petitioner was informed that spot inspection will be held on 17.8.2009. Subsequently, the sales officer informed the petitioner that inspection was not done due to technical reasons. Thereafter, the petitioner gave representation dated 18.8.2009 to the 1st respondent to inform him the date and time of inspection of sites. Thereafter, the petitioner was informed through telegram that inspection will be done on 1.9.2009 at 11.30 a.m. Subsequently, the petitioner was called for interview on 29.9.2009. The petitioner attended the interview on 29.9.2009. On the same day, the selection list was published. The petitioner's name was at Sl. No. 9. The petitioner was allotted 53 marks. No marks were allotted to the petitioner for capability to provide infrastructure and facility and to arrange finance and also under the head fixed/immovable assets. The respondent No. 4 was allotted 90.26 marks and shown at Sl. No. 1. The petitioner gave representation requesting to hold an enquiry. In response to that, the 1st respondent has issued Annexure-K stating that as per the technical committee report the sites offered by the petitioner are outside the advertised stretch and therefore rejected by the committee. Further fixed/immovable property valuation report submitted by the petitioner was in the name of his wife and the petitioner has not sent consent letter from his wife as required under dealer selection guidelines. Therefore, marks were not allotted for fixed/immovable assets. The communication issued by the 1st respondent vide Annexure-K is contrary to the facts and circumstances of the case.

8. Inviting my attention to Annexure-L, the learned counsel for the petitioner submitted that the plots offered by the petitioner were situated within half a kilometer from the notified stretch. Therefore, the rejection by the technical committee is not correct. He also submitted that the petitioner has complied with all the requirements and his claim has been wrongly rejected. Therefore, the impugned selection list and communication at Annexure-K cannot be sustained in law.

9. The learned counsel for the first respondent submitted that the impugned selection list and communication at Annexure-K do not call for interference. The sites offered by the petitioner are situated outside the advertised stretch and therefore, they were not accepted. As per the guidelines, the sites offered should be within the advertised stretch. Otherwise, the land will not be considered for evaluation. Further, he submitted that fixed/immovable property valuation report submitted by the petitioner was in the name of his wife and the petitioner had not submitted a consent letter as required under the guidelines. Therefore, no marks were given for the fixed/immovable assets. He also submitted that the petitioner had secured only 53 marks out of 100 marks and respondent No. 4 had secured 90.26 marks. As the respondent No. 4 had secured highest marks, the letter of intent was issued to him. Therefore, the impugned communication or the selection list do not call for interference and the writ petition may be dismissed.

10. The learned counsel for the respondent No. 3 submitted that the writ petition is not maintainable. The facts are seriously disputed. Therefore, the disputed facts cannot be gone into in the writ petition. Therefore, the writ petition may be dismissed.

11. The learned counsel for the respondent No. 4 submitted that the petitioner had secured only 53 marks out of 100. The respondent No. 4 had secured 90.26 which was the highest. Therefore, the first respondent has issued letter of intent to the respondent No. 4. Further, the sites offered by the petitioner are situated beyond the notified stretch. Therefore, they are not considered. The first respondent has given valid reasons for not allotting marks for capability to provide infrastructure and facility and capability to arrange the finance. Therefore, the impugned communication at Annexure-K and the selection list at Annexure-H do not call for interference. Therefore, the writ petition may be dismissed.

12. I have carefully considered the submissions made by the learned counsel for the parties and also perused the original records produced by the respondent No. 1.

13. It is relevant to note, the first respondent invited applications for dealership of HPCL retail outlet between Gokak cross and Mudalagi. The petitioner was one of the applicants. The petitioner contends that he had produced all the required documents along with the application. Inspection of sites was done. Thereafter, the petitioner was called for interview through letter dated 14.09.2009 to attend the interview on 29.9.2009. The petitioner attended the interview on 29.9.2009. On the same day, the selection list was published as per Annexure-H. In all, 10 persons have been interviewed. The petitioner is at Sl. No. 9. He has secured 53 marks out 100. The respondent No. 4 is at Sl. No. 1. He has secured 90.26 marks. Thereafter, the petitioner has given representation requesting to conduct an enquiry. Thereafter, the first respondent has issued communication as per Annexure-K stating that the sites offered by the petitioner are outside the

advertised stretch. Therefore, the committee rejected it. As per the guidelines, the petitioner was supposed to offer sites within the advertised stretch. Further, fixed/immovable property valuation report submitted by the petitioner was in the name of his wife and the petitioner has not submitted the consent letter. Therefore, marks for fixed/immovable asset were not given. The learned counsel for the first respondent has produced the original records. The records reveal that the consent letter of petitioner's wife and one Prakash Sonwalkar and few other consent letters have been produced by the petitioner. Therefore, the reason given in Annexure-K stating that the petitioner had not produced consent letter of his wife is not correct. Further, it is stated in Annexure-K, that the sites offered were not within the advertised stretch. The petitioner has produced Annexure-L. It shows that the plot Nos. 38, 39, 40 in re-Survey No. 498/3B/1 of Mudalagi village are situated at a distant of half a kilometer from the Gokak cross. Annexure-K shows that the sites offered by the petitioner were not considered for evaluation as they were not located within the advertised stretch. It appears to be incorrect. Annexure V shows that plot Nos. 38, 39 and 40 in re-survey No. 498/3B/1 of Mudalagi village are situated at a distance of half a kilometer from Gokak cross. Annexure V is not denied. Therefore, the matter requires reconsideration. However, the respondent No. 4 has secured highest marks and letter of intent has been issued to him. It need not be disturbed at this stage. After reconsideration, if it is found that the petitioner was wrongly denied marks for the sites offered and for fixed/immovable assets and if marks are allotted, the petitioner gets more marks than the respondent No. 4, then, the respondents 1 and 2 may take appropriate action in accordance with law.

Accordingly, the writ petition is allowed and the impugned communication at Annexure-A and selection List at Annexure-H insofar as the petitioner is concerned are hereby quashed. The matter is remitted to the respondents 1 and 2 to reconsider the matter in accordance with law and in the light of the observation made in the course of this order within three months from the date of receipt of a copy of this order.