

(2016) 01 KAR CK 0141
In the Karnataka High Court
Case No : W.P. No. 112007/2014 (GM-RES)

Mahantesh

APPELLANT

Vs

The Hindustan Petroleum Corporation Ltd.

RESPONDENT

Date of Decision : 25-01-2016

Acts Referred:

Citation : (2016) 01 KAR CK 0141

Hon'ble Judges : B. Veerappa, J.

Bench : Single Bench

Advocate : F.V. Patil and Pruthvi K.S., Advocates, for the Appellant; V.S. Kalsurmath, Advocate for Mallikarjun C. Basareddy, Advocate, for the Respondent

Final Decision : Allowed

Judgement

B. Veerappa, J.—1. The petitioner in the above writ petition has sought to quash the impugned intimation/order dated 29.10.2014 issued by the respondent - Corporation, rejecting his candidature for award of Liquid Petroleum Gas distributorship at Haven (Devagiri), Haven District in pursuant to the advertisement dated 21.09.2013.

2. It is the case of the petitioner that the respondent issued advertisement in Prajavani newspaper dated 21.09.2013 calling for Liquid Petroleum Gas (LPG) distributorship to various centres throughout the State, including Haven (Devagiri), location No. 62 to which the petitioner is concerned. In pursuance to the said advertisement, the petitioner made an application on 11.11.2013 to the respondent/Corporation for allotment of LPG distributorship at Haven (Devagiri). The respondent/Corporation after satisfying that the application filed by the petitioner is in conformity with the conditions imposed in the advertisement, the petitioner is qualified about the draw vide letter dated 01.11.2014. The same was intimated to the petitioner by Annexure - C and the date of draw was on 28.01.2014 and the Sl. No. 7 in the said letter reads as under:

"7. Shri. Mahantesh C. Herur son of Shri Chennabasappa HBL/HDG/021 was

declared as selected candidate."

It is also stated in the letter that:

"We confirm that the "draw" was held as per the guidelines and the details stated above are correct."

3. It is the further case of the petitioner that in the advertisement as well as the proceedings for selection of regular (IMP) distributorship, the name of the location is shown as Haven (Devagiri) town and the showroom of the land shown by the petitioner is in conformity with the advertise location and it was informed to the petitioner that the showroom land is not in the advertised location as per the regular distributor selection guidelines. Accordingly, the candidature of the petitioner came to be rejected. Therefore, the petitioner is before this Court.

4. I have heard the learned counsel for the parties to the lis.

5. Shri F.V. Patil, learned counsel for the petitioner contended that the impugned order/intimation passed by the respondent rejecting the candidature of the petitioner is wholly arbitrary and the same has been done on extraneous reasons. He also contended that the impugned rejection order is passed by the respondent without issuing notice and in violation of principles of natural justice. Therefore, he sought to allow the writ petition by quashing Annexure-D.

6. Per contra, Shri V.S. Kalasurmath, learned counsel appearing on behalf of Shri Mallikarjun S. Hiremath for the respondent sought to justify the impugned rejection order. In support of his submission, he sought reliance of the statement of objections filed on behalf of the respondent -Corporation. At paragraph 5 of the statement of objections, it is specifically contended that as per the guidelines, field verification will be conducted as per clause 9.15 and clause 10 of the applicable guidelines and during field verification by the Committee, it was observed that the land shown for showroom by the petitioner is not in advertised location and hence, the application is rejected. Therefore, he contended that the same is in accordance with law and the petitioner is not entitled for the relief sought for. He further contended that there is no need to issue notice to the petitioner before passing the impugned order. Therefore, he sought to justify the impugned order.

7. I have given my anxious consideration to the arguments advanced by the learned counsel for the parties and perused the entire material on record carefully.

8. It is not in dispute that the respondent issued advertisement as per Annexure - A dated 21.09.2013 as under:

9. It is also not in dispute that the petitioner has applied in pursuance to the said notification by producing all the material documents in terms of the conditions imposed by Annexure-A. After considering the entire material, the respondents by their letter dated 01.11.2014, notified the petitioner that his application is in

conformity with the conditions imposed in the advertisement and subsequently, Annexure-C depicts that draw date was 28.01.2014 and the petitioner Mahantesh, S/o. Channabasappa Herur was declared as selected candidate and the draw was held as per the guidelines. When the things stood thus, the respondent by the impugned order/intimation dated 29.10.2014 rejected the candidature of the petitioner only on the ground "showroom land is not in the advertised location as per the regular distributor selection guidelines". As per Annexure-R1 - Format for Field Verification of Credentials of Individual Application for LPG Distributor and as per Annexure-R2 -Guidelines on Selection of Regular LPG Distributorship, produced by the respondent, the guideline No. 10 pertains to field verification of credentials, which reads as under:

"10. FIELD VERIFICATION OF CREDENTIALS(FVC)

a. Verification of the information given in the application by the applicant with the original documents and with the issuing authorities wherever required is called Field Verification of Credentials (FVC).

b. Field verification will be carried out for the selected candidate as per laid down procedure. If in the FVC, the information given in the application by the applicant is found to be correct. Letter of intent (LOI) will be issued with the approval of competent authority.

c. If in the FVC it is found that information given in the application is at variance with the original documents and that information affects the eligibility of the candidate, then a letter would be sent by Registered Post AD/Speed Post pointing out the discrepancy. Candidature of selected candidate in such a case will be cancelled and 10% of applicable security deposit remitted by the selected candidate before FVC will be forfeited if false/incorrect/misrepresented information has been given in the application."

10. By reading of the said clause, it clearly indicates that, if in the FVC, it is found that information given in the application is at variance with the original document and that the information affects the eligibility of the candidate, then a letter would be sent by Registered Post AD/Speed Post pointing out the discrepancy. Candidature of selected candidate in such a case would be cancelled and 10% of applicable security deposit remitted by the selected candidate before FVC would be forfeited if false/incorrect or misrepresented information is given in the application.

11. In the present case, before passing the impugned order, no information is given to the petitioner nor the principle of natural justice has been followed. Though the learned Counsel for the respondent contended that it was stated at para 5 of the statement of objections, nowhere in the statement of objections, the respondent has stated about the intimation to the petitioner as to why it has cancelled is not forthcoming and before the cancellation, an opportunity of being heard was not given to the petitioner. Annexures A and C clearly depict that the petitioner applied only in town and not village and allotted in respect of the town.

The impugned order at Annexure-D, which only says that the "showroom land of the petitioner is not in advertised location or locality as per Regular Distributor Selection Guidelines", the same is contrary to Annexure-A and Annexure-C. The material documents clearly indicates that the very application filed by the petitioner is in respect of the town and the same was accepted by the respondent by the letter dated 11.01.2014 and accordingly, indicated by Annexure-C that on 28.01.2014 (date of draw) declared the petitioner as selected candidate. Without verifying the material documents on record, the respondent proceeded to pass the impugned order. The same is contrary to the records and in utter violation of the principles of natural justice.

12. In view of the aforesaid reasons, the petition is allowed. The impugned order at Annexure-D is quashed with liberty to the respondent to take action in accordance with law only after issuing notice and giving an opportunity of being heard to the petitioner and pass appropriate orders in accordance with law.

Ordered accordingly.

In view of the disposal of the main petition, I.A. 1/2015 is also disposed of as does not survive for consideration.