
(2012) 03 RAJ CK 0130
In the Rajasthan High Court
Case No : Civil Writ Petition No. 9983 of 2010

Mahendra Kumar Pareek

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 28-03-2012

Acts Referred:

Citation : (2012) 03 RAJ CK 0130

Hon'ble Judges : Ajay Rastogi, J

Bench : Single Bench

Advocate : Lokesh Sharma, for the Appellant; Krishna Verma, for Mr. Anant Kasliwal, for respondent (Oil Co.), Mr. P.S. Sharma, for respondents-7, 8 and Mr. Anil Tiwari for Mr. K.N. Gupta, for respondent- 5, for the Respondent

Final Decision : Dismissed

Judgement

Ajay Rastogi

1. Matter has come up on application seeking vacation of interim order dt.17/01/2011; however, looking to the issues involved, at joint request, matter was finally heard at admission stage. Both, petitioner and respondents-7 & 8 (who jointly submitted application) were the applicants for allotment of retail outlet for proposed site at main road Chaksu (Kotkhavda Road) situated near 3 Kms from NH-12 pursuant to advertisement dt.13/07/2009 (Ann.1); and after examining the record of individual applicants, provisional merit list was prepared by respondents (oil co.) in which name of respondents-7 & 8 (jointly) appeared at S.No.1 while that of petitioner at S.No.2; however, certain objections were raised by the petitioner regarding inclusion of name of respondents-7 & 8 at S.No.1 and further grievance was that they were not eligible to apply pursuant to advertisement dt.13/07/2009 (Ann.1). Objection raised by the petitioner was examined by the Committee as is evident from report dt.06/09/2010 (Ann.R2/1) placed on record along with reply - relevant extract of which is quoted ad infra :

complaint of shri Mahendra Kumar Parik:-

The Chief Regional Manager, Jodhpur RO (SM) has submitted his report vide letter 22/07/2010 in response to our letter NWZ/RET/RDA, dated 10/05/2010 to investigate into above complaint.

The observations of Investigating Officer for complaint made by Sh. Mahendra Kumar Parik are listed below:

1. Land offered by me is an ancestral property and is in my father's name. My father has given consent for using the land and still I have been awarded less marks in comparison, land is owned by one partner i.e. Smt. Anita Gupta and full marks has been given to Sh. Nandkishore Sharma.

Finding. Sh. Mahendra Kumar Parik is married as per his application. Hence has not been considered belonging to the family unit of his father and accordingly 25 marks have been awarded by L-1 Committee.

Sh. Nandkishore sharma and Smt. Anita Gupta has applied partnership. Land is owned y Smt. Anita Gupta (One of the partners) and hence 35 marks have been awarded L-1 Committee.

2. Frontage of my land is 50 Mtr. & whereas frontage of land offered by Smt. Anita Gupta is 40 Mtrs only.

Findings: HPCL has asked for a

land with minimum dimension of 35 x 35 mtrs. Both the lands are having frontage more than requirement and TEC has awarded full marks to both the lands.

3. Land offered by St. Anita Gupta is closed to cremation ground on the one side and there is a drain flowing on back side of her land.

Finding : Two Criteria mentioned by complainant does not affects acceptability of the land.

4.

visibility of my land is better compared to land offered by Smt. Anita Gupta.

Finding: TEC has awarded equal marks (9 marks) to both the land on this criteria.

5. I have submitted papers showing a capability of 19 lakhs whereas Corporation has asked for capability of 12 lakhs. Further 10 Bighas land adjacent to offered land shows my financial capability.

Finding: He has been awarded 12 marks on liquid cash and "0" marks has been awarded on fixed assets as the 10 bighas adjoining land is in his father's name.

In view of the above, the investigating officer has concluded that the complaint made by Sh. Mahendra Kumar Parik is not substantiated.

2. Counsel for petitioner submits that over the subject land of respondents-7 &

8, High-Tension electricity supply line was passing and there was condition in the guidelines issued by oil Companies that such of applicants are not eligible if HT line is passing through the subject land proposed for allotment.

3. After such objection being raised by petitioner, additional affidavit was filed by the respondents, alongwith evaluation made by site inspection committee constituted for retail outlet who has made physical inspection of the subject site including that of petitioner & respondents-7 & 8 and in its report, it was recorded that it was Low-Tension electricity supply line passing through subject land proposed by both the applicants and that being so, both were awarded "zero" marks and that was not the cause of ineligibility or an impediment to process pursuant to advertisement; however, it has been informed that on the application being submitted by respondents-7 & 8, LT supply line has been shifted.

4. Main thrust made by Counsel for petitioner is that after objections are meted out by the Committee in its report, once there was HT line found passing through the subject site in question proposed by the respondents-7 & 8 and they being ineligible, their very participation pursuant advertisement was bad and being in contravention of the guidelines of the oil cos.; inclusion of their names and placement at s.No.1 in the select list prepared by respondents authority is arbitrary and requires interference.

5. Submission made by Counsel for petitioner does not hold good for the reason that from the site inspection made by inspection committee on 25/09/2009, it was specifically recorded in their report (Ann.R2/1 annexed to the counter affidavit dt.16/09/2011) that it was LT electricity supply line passing through subject land proposed by both the applicants and that too has been shifted and it was not an impediment for an incumbent to participate in selection process initiated pursuant to advertisement, this Court finds no error being committed by respondent authority in its decision making process, which may warrant interference. Consequently, the writ petition fails and is hereby dismissed. No costs.