
(2015) 06 JH CK 0037
In the Jharkhand High Court
Case No : WP(C) No. 6675 of 2013

Maksud Alam

APPELLANT

Vs

Indian Oil Corporation and Others

RESPONDENT

Date of Decision : 18-06-2015

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2015) 3 JLJR 280

Hon'ble Judges : S. Chandrashekhar, J

Bench : Single Bench

Advocate : K.M. Verma and Lalan Kumar Singh, for the Appellant; V. Shivnath and A.N. Gupta, Advocates for the Respondent

Final Decision : Dismissed

Judgement

S. Chandrashekhar, J—Alleging illegal denial of grant of LPG distributorship for Chalkusha-Seldih and Dumduma under Barkatha Block, the petitioner has sought cancellation of allotment of the said LPG distributorship in favour of respondent No. 6. Pursuant to advertisement dated 25.2.2012 published in daily newspaper namely, Hindustan for appointment of LPG distributorship, the petitioner and respondent No. 6 were sort-listed. The petitioner was awarded maximum marks and the respondent No. 6 was placed below the petitioner. One of the essential requirements for grant of LPG distributorship was to own a plot for godown in the advertised location and the applicant must be resident of the same village/city.

2. The learned counsel for the petitioner submits that though, the respondent No. 6 was not a resident of the same village and the document produced in the present proceeding would indicate that the sale deed for the land purchased by the respondent No. 6 was tampered still, the LPG distributorship was granted to the respondent No. 6. Referring to the field verification report, the learned counsel for the petitioner submits that the candidature of the petitioner has been rejected on an erroneous ground that the land for godown/showroom is in the name of the father of the petitioner. Referring to clause 3 of the advertisement,

the learned counsel for the petitioner submits that father is included in the definition of the family thus, the petitioner fulfills necessary eligibility criteria.

3. Mr. V. Shivnath, the learned Senior Counsel for the respondent-Indian Oil Corporation submits that the legal notice dated 3.7.2013 sent by the petitioner was replied by the respondent-IOC. The petitioner did not furnish any evidence along with the legal notice dated 3.7.2013 in support of the allegations levelled by him. The award of LPG distributorship in favour of the respondent No. 6 was made after proper field verification and examination of the documents produced by him. Finding no infirmity in the selection of the respondent No. 6 as LPG distributor, the representation made by the petitioner through legal notice dated 3.7.2013 was rejected. The learned Senior Counsel further submits that neither the rejection order dated 14.7.2013 has been challenged nor the finding of the field verification report which is against the petitioner has been challenged by the petitioner and therefore, the writ petition is liable to be dismissed on these grounds alone.

4. Mr. Sudarshan Srivastava, the learned counsel for the respondent No. 6 submits that in view of Clause 3, the petitioner who applied in the category of married person is not entitled to utilise land owned by his father. The respondent No. 6 has produced residential certificate establishing that he is a resident of Village-Chalkusha. The petitioner has not claimed that the residential certificate produced by the respondent No. 6 is a forged document.

5. I have carefully considered the submissions of the learned counsel for the parties and perused the documents on record.

6. From the material brought on record, it is apparent that the petitioner only for the reason that the name of the respondent No. 6 does not appear in the voter list for the Village-Chalkusha, has thrown a challenge to the selection of the respondent No. 6 as LPG distributor for the said area. The petitioner in the legal notice dated 3.7.2013 has himself given the address of the respondent No. 6 as, "Bindeshwar Yadav son of Ganesh Yadav of Village-Gopidih, PO-Chalkusha, PS-Barkatha, District-Hazaribagh".

7. The learned counsel for the petitioner has referred to the sale deed produced by the petitioner (sic--respondent?) and submits that the name of the village has been tampered in the said sale deed. Whether a tampered document has been produced by the respondent No. 6 or not, is not the question which can be decided by the writ court. The respondents vide letter dated 14.7.2013 rejected the representation of the petitioner sent through legal notice dated 3.7.2013. The respondents have asserted that the allegations of fabricated document produced by the respondent No. 6 is not correct. The selection of distributorship is made in two stages. In the first stage documents are scrutinized and thereafter, a candidate is selected through draw. After the selection of the candidate, physical verification of the proposed site is carried and thereafter, letter of intent is issued in favour of the selected candidate. No irregularity in

conducting the draw for selecting the L.P.G. distributor has been alleged by the petitioner. The petitioner applied in the category of married person. In the counter affidavit the respondents have asserted as under:--

"13. That the statement made in para-8 of the writ application, under reply, it is stated that it is clearly mentioned in Clause No. 9 of the application form as well as advertisement (Annexure-1) that there must be own suitable land at advertised location for LPG godown and showroom. Own means having clear ownership title of the property in the name of applicant/family member of the family unit. Family unit of married applicant shall consist of self-applicants, spouse and unmarried son(s)/daughter's) and family unit of unmarried applicant, shall consist of self, applicant's parents and applicant's unmarried brother(s) and sister(s). In case of family members, consent letter from the family member will be required."

8. Clause 3 of the advertisement reads as under:

3 "Rules for multiple Dealership/distributorship will have to be fulfilled:--

Meaning of rules for multiple dealership/distributorship is that the applicant or any other family member of a "family unit" should not be a holder of letter of intent (LOI) of dealership/distributorship/RGGLV or dealership/distributorship/RGGLV of a PSU Oil Company, in other words, permission for a retail outlet/SKO-LDO, dealership/LPG distributorship/RGGLV will be given to a "family unit".

In case of a married person/applicant, "family unit" includes concerned person, her/his husband/wife and his/her unmarried sons/daughters. In case of unmarried person/applicant "family unit" includes concerned person/applicant, his/her mother/father and his/her unmarried brothers and unmarried sisters. In case of divorcee, "family unit" includes concerned person, unmarried sons/unmarried daughters, who have been entrusted responsibilities to look after them. In case of widow/widower, "family unit" includes concerned persons, and his/her unmarried sons/daughters."

It is thus, clear that the land for godown shown by the petitioner was not in his name and it was also not in the name of family member as defined in clause 3. The respondents have also asserted that the land shown by the petitioner is not connected to a motorable road and thus, it was not suitable for godown. The LPG distributorship to the respondent No. 6 was allotted after proper field verification. The respondent-IOC has further asserted that the respondent no, 6 produced residential certificate dated 15.10.2012 as resident of Village-Chalkusa which is the advertised location. It is well settled that the writ court exercising jurisdiction under Article 226 of the Constitution of India does not sit as an appellate authority over the decision taken by the administrative authorities. No error in the decision making process has been shown by the petitioner. Accordingly, the writ petition is dismissed. I.A. No. 227 of 2015 stands disposed of.