

**(2019) 12 RAJ CK 0047**

**In the Rajasthan High Court**

**Case No : Civil Writ Petition No. 17922 Of 2019**

Om Prakash Garg

APPELLANT

Vs

Bharat Petroleum Corporation Ltd And Ors

RESPONDENT

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**Date of Decision : 10-12-2019**

**Acts Referred:**

Constitution Of India, 1950 — Article 226

**Citation : (2019) 12 RAJ CK 0047**

**Hon'ble Judges : Dinesh Mehta, J**

**Bench : Single Bench**

**Advocate : Rajat Dave**

**Final Decision : Dismissed**

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## **Judgement**

1. Petitioner, feeling aggrieved of the communication dated 22.10.2019, issued by the Territory Manager (Retail), Bharat Petroleum Corporation Ltd., rejecting his candidature and right of consideration in Group-1, has approached this Court, invoking Article 226 of the Constitution of India.

2. Shorn of unwarranted details, the facts in brief are that the petitioner applied for allotment of retail outlet at village Nayanagar on SH 28, District Barmer under SC Category for CFS site, in pursuance of the advertisement dated 14.12.2018.

3. Petitioner's name was selected in draw of lots, whereafter, a field verification was done by the respondents, during which they found that the land offered by the petitioner falls in ROW (Right Of Way) of the State Highway No.28. Such being the position, the respondents finding petitioner's land to be not suitable, issued the impugned communication dated 22.10.2019.

4. Mr. Rajat Dave, learned counsel for the petitioner assailing the communication dated 22.10.2019, contended that the petitioner is having leasehold rights of requisite land and alongwith petitioner's application, he had furnished a consent letter from the leasee, to the effect that if additional land would be required, he

would give further land on lease.

5. With these assertions, learned counsel contended that it was required of the respondent to ask the petitioner to offer additional/alternative land, as per the express provision of the guidelines.

6. Learned counsel invited Court's attention towards Clause 4(v) of the Brochure/guidelines, which reads thus:

"Land (Applicable to all categories):

The applicants would be classified into three groups as mentioned below based on the land offered or land not offered by them in the application form:-

Group 1: Applicants having suitable piece of land in the advertised location/area either by way of ownership/long term lease for a period of minimum 19 years 11 months or as advertised by the OMC.

Group 2: Applicants having Firm Offer for a suitable piece of land for purchase or long term lease for a period of minimum 19 years 11 months or as advertised by the OMC.

Group 3: Applicants who have not offered land in the application.

Application under Group 3 would be processed/advised to offer land only in case no eligible applicant is found or no applicant get selected under Group 1 & 2.

In case land offered by all the applicants under Group 1 & Group 2 is found not suitable/not meeting requirements, then these applicant/s under Group 1 and Group 2 along with applicants under Group 3 (who did not offer land along with application) would be advised by the OMCs to provide suitable land in the advertised location/stretch, within a period of 3 months from the date of issuance of intimation letter to them through SMS/e-mail. In case the applicant fails to provide suitable land within the prescribed period or the land provided is found not meeting the laid down criteria, the application would be rejected."

7. Learned counsel invited Court's attention towards 2nd proviso to Sub-Clause (v) of Clause 4 of the guidelines and contended that respondents have erred in not asking the petitioner to offer additional/alternative land

8. Heard learned counsel for the petitioner.

9. A perusal of the guidelines and wholistic reading thereof leaves no room of ambiguity that an application can be considered in Group 1 category, in case he/she is having ownership right or leasehold right over the land; in case the land offered by the candidate is found unsuitable or short of required parameters, instead of rejecting his candidature outrightly, his application will be kept reserved to be considered alongwith Group 3 candidates.

10. Petitioner's arguments based on second proviso to Sub-Clause (v) of Clause 4 of the guidelines that the respondent is required to issue notice, is untenable.

11. This Court in Smt. Preeti Sharma Vs. Indian Oil Corporation Ltd. & Ors.; S.B. Civil Writ Petition No.17979/2019, has already held as under:

"Mr. Shah, learned counsel, having entered Caveat on behalf of the respondent-Indian Oil Corporation, invited Court's attention towards Clause H of the dealership Guidelines dated 24.11.2018 and pointed out that the land evaluation committee is required to adjudge the suitability of the land on various factors, out of which important consideration is - "land has no HT line (<11 KVA) crossing".

Learned counsel also invited Court's attention towards the following stipulation made in Clause H:-

"In case land is not found suitable, the selected candidate will be informed about his ineligibility and selection process will be continued with the balance applicants. However, the candidate would be considered for selection along with Group 3 applicants and intimation will be sent to the candidate."

Heard.

In considered opinion of this Court, petitioner's candidature has not been outrightly rejected, but the same has been deferred to be considered along with Group 3 applicants.

The aforesaid stipulation encapsulated in Clause (H) leaves no room for ambiguity that the respondents have kept the petitioner's application alive, to be considered along with Group 3 applicants.

During the course of submission, Mr. Verma submitted that he is in the process of getting the line removed and the respondent No.1 may be directed to provide 15 days' time so that the electricity line can be removed.

In considered opinion of this Court, such request of the petitioner cannot be acceded to, inasmuch as the ineligibility or the disqualification has to be reckoned on the day of submitting application form and /or latest at the time of field verification.

The fact that High Tension Line is passing over the petitioner's offered land, is not in dispute.

Hence, this Court does not find any substance in the petition, for which the same is dismissed summarily."

12 In view of the aforesaid, though ground of rejection in the present case is different, but petitioner's rejection from Group 1 is not contrary to law and guidelines. There is no substance in the present writ petition, for which it is dismissed.

13. Stay petition also stands dismissed.