
(2007) 08 MP CK 0110
In the Madhya Pradesh High Court
Case No : Writ Petition No. 1690 of 2007

Pannalal Shinde

APPELLANT

Vs

Hindustan Petroleum Corporation Ltd. and Others

RESPONDENT

Date of Decision : 30-08-2007

Acts Referred:

Citation : (2008) 1 MPLJ 325

Hon'ble Judges : Viney Mittal, J

Bench : Single Bench

Advocate : A.K. Sethi and S.S. Sharma, for the Appellant; S.R. Kochatta, for Respondents No. 1 and 2, Shailendra Mukati, for the Respondent

Final Decision : Dismissed

Judgement

Viney Mittal, J.

Hindustan Petroleum Corporation, advertised for appointment of a retail outlet dealer in the Scheduled Caste category. In fact, an advertisement was issued in which various retail outlets were advertised for appointment including one for Scheduled Caste category at village Bamnala District Khargonc.

The Petitioner and various other persons, including Respondents No. 3 to 5, applied in pursuance to the said appointment. According to the Petitioner, in all 29 applications were received by the corporation. The applicants were called for interview on January 11, 2006. One applicant was found not eligible. 7 candidates did not attend the interview. The remaining candidates were interviewed.

According to the Petitioner, in the result prepared by the Screening Committee, he was shown at serial No. 4, having obtained 71.67 % marks; Respondent No. 3 Rakesh was shown at serial No. 1, having obtained 80% marks; Sitaram, Respondent No, 4 had obtained 78.33% marks and was shown at Sr. No. 2; whereas Arjun Singh having obtained 75% marks, was placed at serial No. 3 of the result sheet prepared by the screening committee. The Petitioner felt

dissatisfied with his placement at serial No. 4 in the result sheet and as such approached this Court through W.P. No. 1547/06. In the said writ petition one of the grievances raised by the Petitioner was that the maximum marks for experience had been indicated as 4 in the brochure issued by the corporation but Rakesh was shown having obtained 12 marks; Sitaram was awarded 12 marks; Arjun Singh was also awarded 12 marks; and the Petitioner was only awarded 3 marks for experience. The Petitioner maintained that since awarding of the aforesaid marks for experience were much more than the total marks awardable being 4, therefore, the result sheet was not prepared as per the brochure.

The writ petition filed by the Petitioner was disposed of by this Court with directions to the corporation to afford an opportunity of hearing to the Petitioner and other Respondents by Redressal Grievances Committee and the grievances raised by the Petitioner and other persons be considered.

In pursuance to the directions issued by this Court, the matter was reconsidered by the Grievances Committee and vide an order dated November 22, 2006, the result sheet prepared by the selection committee, has been approved and as a consequence thereof Letter of Intent (LOI) has been ordered to be issued to the first empanelled candidate i.e. Respondent No. 3, subject to his establishing the genuineness of the documents submitted by him. The aforesaid order dated November 22, 2006 has been appended as Annexure P-6 with the present petition and is subject-matter of challenge by the Petitioner before this Court.

On a show cause notice issued in the present petition, separate replies have been filed by Respondents No. 1 and 2 and Respondent No. 3. In the said replies, Respondents have defended the selection process as well as the order passed by the Grievances Committee. It has been maintained that the selection process had been conducted in strict compliance of the guidelines/instructions contained in the brochure and therefore, the Petitioner being lower in merit, having secured only 71.67% marks, was not entitled to make any grievance against issuance of the LOI to Rakesh, Respondent No, 3, who had obtained 80% marks.

I have heard Shri A.K. Sethi learned Senior counsel appearing for the Petitioner, Shri S.R. Kochatta, learned Counsel appearing for the corporation and Shri Shailendra Mukati, learned Counsel appearing for Respondent No. 3 and with their assistance, have also gone through the record.

Shri A.K. Sethi, learned Senior counsel for the Petitioner has vehemently contended that the result sheet prepared by the screening committee had been challenged by the Petitioner earlier through W.P. No. 1547/06 and a specific grievance had been raised with regard to awarding of more marks than maximum of 4 marks, which were awardable for experience possessed by an applicant and as such this Court while disposing of the earlier writ petition, had directed the grievances committee to go into the said question. It has also been argued by the learned Senior counsel that while passing the impugned order Annexure P-6, the grievances committee had ordered issuance of the LOI to

Respondent No. 3 Rakesh, even without examining the genuineness of the documents furnished by him and therefore, a wrong procedure had been adopted. The learned Counsel maintains that in fact the documents should have been first examined by the screening committee/grievances committee and it was only thereafter that Letter of Intent could be issued.

On the other hand the learned Counsel appearing for the Respondents have refuted all the aforesaid pleas raised on behalf of the Petitioner. It has been maintained that the selection process was absolutely transparent and inconformity with the brochure/guidelines.

Shri Shailendra Mukati, learned Counsel for Respondent No. 3 while referring to the result-sheet Annexure P-4 has demonstrated that the result-sheet had been prepared in absolute consonance with the guidelines/instructions contained in the brochure. Shri Mukati has argued that three members of the screening committee had awarded separate marks and individual up-to the maximum awardable for the aforesaid category and the total of the aforesaid marks awarded by each member of the screening committee, had been reflected in the result-sheet. However, in the last column (xvi), it had been noticed that the maximum marks awardable to a candidate were 40 and since the total marks obtained by a candidate, having been awarded by three screening committee members separately, were more than the maximum marks, therefore the marks were reduced by applying the principle of average as reflected in column (xvii). Thereafter a percentage has been calculated of the marks obtained by each of the candidates in Column No. (xviii).

The argument of Shri Mukati appears to be correct. It may be noticed that Rakesh Respondent No. 3, was awarded 36 marks, by three members, for educational qualifications as against 15 awardable in that category. Similarly for Tied up Volume, he had been awarded 15 as against maximum 5; Rakesh had obtained 7 marks as against maximum 3 for project report; he was awarded 5 marks as against maximum 2 for Over all assessment; 6 marks had been awarded as against maximum 4 for his age; and for experience he was awarded 12 marks as against maximum 4; similarly for business acumen, he had been awarded 9 marks as against maximum 5; and for personality, he had awarded 6 marks as against maximum 2. The total of the marks was thus 90 as against a total of 40 awardable for all the categories. Column (xvi) shows that an average had been calculated by dividing the said total of 96 by 3 and therefore, the total marks had been indicated as 32 in Column (xvii). Thus, Respondent No. 3 Rakesh having obtained 32 marks out of 40 marks, his percentage marks were calculated as 80%. Thus, it is apparent that the result sheet had been prepared by the screening committee in absolute conformity with the guidelines issued in the brochure.

At this stage, it may also be noticed that the Apex Court in the case of K. Vinod Kumar Vs. S. Palanisamy and Others, , in para 7 of the judgment, had accepted the said procedure.

It may also be noticed that when the Petitioner had raised a similar challenge to the awarding of the marks and the procedure adopted by the Screening Committee before this Court in W.P. No. 1547/06, the judgment of the Apex Court in K. Vinod Kumar's case was not brought to its notice and it was in these circumstances that this Court, although without commenting upon the merits of the claim made by the Petitioner, had chosen to relegate the controversy to be examined by the Screening Committee. In any case, since the procedure adopted by the selection Committee is absolutely in conformity with the brochure and has even been approved by the Apex Court, the Petitioner could not be permitted to raise any grievance against the said procedure.

The second grievance raised on behalf of the Petitioner by Shri Sethi is also devoid of any merit. The various grievances raised by the Petitioner have been duly noticed by the grievances committee. All the aforesaid objections have been rejected. In these circumstances, it was only natural for the said committee to have ordered the issuance of LOI to Respondent No. 3 Rakesh, who had obtained the highest marks. Of course, the said awarding of LOI, was subject to the verification of the original documents supplied by the candidate. I do not find that the aforesaid procedure adopted by the grievances committee is vitiated in any manner. Even otherwise as held by the Apex Court in K. Vinod Kumar's case (supra) the scope of judicial review of an administrative action of the State or its Instrumentality is very limited. The Court is only entitled to see as to whether the decision making process is fair and in conformity with the Rules/Regulations and instructions. I am satisfied that the administrative action taken by the corporation in carrying out the selection process is wholly justified and does not require any interference by this Court.

It may also be noticed that as per the result-sheet, the Petitioner is placed at Sr. No 4. There are two other candidates/applicants over and above the Petitioner and below the selected candidate. The said two candidates i.e. Respondents No. 4 and 5, have not raised any grievance. Thus, the Petitioner being lower in merit than Respondents No. 4 and 5, has even no locus-standi to challenge the selection of Respondent No. 3.

Consequently, I do not find any merit in the present petition. The same is dismissed.

C.C. as per rules.