

(2014) 02 RAJ CK 0088

In the Rajasthan High Court

Case No : Special Appeal (Writ) No. 366 of 2014 in Civil Writ Petition No. 89 of 2014 and Special Appeal (Writ) No. 367 of 2014 in Civil Writ Petition No. 88 of 2014

Prabhu Dayal Jat

APPELLANT

Vs

Indian Oil Corporation Ltd.

RESPONDENT

Date of Decision : 07-02-2014

Acts Referred:

Citation : (2014) 3 CDR 1709

Hon'ble Judges : Amitava Roy, C.J.;Veerender Singh Siradhana, J

Bench : Division Bench

Advocate : Anoop Dhand, Advocate for the Appellant

Judgement

Amitava Roy, C.J.—Both these appeals witness the assailment of the order dated 09.01.2014, passed in S.B. Civil Writ Petition No. 89/2014 and S.B. Civil Writ Petition No. 88/2014, thereby dismissing both the proceedings. We have heard Mr. Anoop Dhand, the learned counsel for the appellants.

2. As the basic factual framework is common, the pleadings of S.B. Civil Writ Petition No. 89/2014 would be adverted to.

3. The appellants/writ-petitioners, in response to an advertisement dated 18.02.2013 issued by the Indian Oil Corporation Limited (for short, hereafter referred to as "the IOCL"), the Hindustan Petroleum Corporation Limited (for short, hereafter referred to as "the HPCL") and the Bharat Petroleum Private Limited (for short, hereafter referred to as "the BPCL"), for allotment of Rajiv Gandhi Gramin LPG Vitrak (RGGLV) (for short, hereafter referred to as "the contract") in the locations, as referred to therein, offered their candidature. Clause 3(Chha) of the advertisement reads as hereunder:--

Clause 6 of the Brochure for selection for the contract, published by the afore named organization, incorporated the common eligibility criteria for all categories and clause (g) thereof reads thus:-

"Have minimum total amount of Rs. 4 lakhs as the closing balance on the last date for submission of application as specified in the advertisement or corrigendum (if any), put together from Saving accounts in Bank, free and unencumbered fixed deposits in scheduled banks, Kisan Vikas Patra, NSC, bonds, any other investment etc. in the name of self of family members of the "Family Unit" as defined in Multiple dealership/distributorship norm who pledge in writing such assets in favour of applicant."

4. Admittedly, in terms of the above clauses, a candidate to be eligible, was to have a minimum amount of Rs. 4 lakhs as the closing balance on the last date of submission of application, as specified in the advertisement or corrigendum (if any), put together in Saving accounts in Bank, free and un-encumbered fixed deposits in scheduled banks, Kisan Vikas Patra, NSC, bonds, any other investment etc. in his/her name or in the name of family members of the "Family Unit", as defined in multiple dealership/distributorship norm, who would pledge in writing such assets in favour of applicant.

5. According to the appellants/writ-petitioners, the Regional Office of the IOCL directed them to appear before the Selection Committee for draw on 06.08.2013 at its office at Jaipur. Both of them have asserted that on the last date of submission of the application form, they had deposit of more than Rs. 4 lacs in the fixed deposit and saving account of their banks. According to them, though they were selected in the draw, eventually their candidature was rejected for the following reasons:--

In CWP No. 89/2014

"The information in column 10.2 (amount mentioned in the application) is incorrect since during FVC it is noticed that the applicant deposited Rs. 4.00 lac on 19.3.2013 and also withdrawn Rs. 4.00 lacs on 19.3.2013 itself and only Rs. 11652/- was balance in SB A/c of the candidate on 21.03.2013 (last date of submission of application form was 21.3.2013). The amount is below Rs. 4.00 lacs which is an eligibility criterion for OPEN category applicants.

In view of the above your candidature is rejected and the amount of Rs. 20000/- with the Corporation stands forfeited in line with clause No. 16(i) of the advertisement."

In CWP No. 88/2014

"The information in column 10.2 (amount mentioned in the application) is incorrect since during FVC it is noticed that only Rs. 236500/- was balance in SB A/c of the candidate on 21.3.2013 (last date of submission of application form was 21.03.2013). The amount is below Rs. 4.00 lacs which is an eligibility criterion for OPEN category applicants.

In view of the above your candidature is rejected and the amount of Rs. 20000/- with the Corporation stands forfeited in line with clause No. 16(i) of the advertisement."

6. As would be evident from the above texts, their candidature was rejected as on the last date of submission of application form, they did not have the stipulated deposit of Rs. 4 lacs in their accounts. While admitting that they did not mention the details of their FDRs" in their application form, the appellants/writ-petitioners contended that before rejecting their candidature, the IOCL ought to have required them to submit the same. Being aggrieved, they caused a notice for demand of justice, to be served on the IOCL and having failed to elicit any response, approached this Court with S.B. Civil Writ Petition Nos. 20807/2013 and 20820/2013, which were disposed of on 05.12.2013 and 09.12.2013 respectively, by leaving them at liberty to submit a representation before the Regional Office of the IOCL at Jaipur along with proof of the required deposit prior to the last date of submission of application form. Thereby, the respondent-IOCL was required to decide the representation within a period of two months by a speaking order. The appellants/writ-petitioners did submit their representations pleading that they had more than Rs. 4 lacs in FDR in the bank, as mentioned therein, while admitting that they had not mentioned the details thereof in the application form. The IOCL having rejected their representations and forfeited the earnest money of Rs. 20,000/-, they returned to this Court seeking redress.

7. The learned Single Judge, having, by the order impugned, declined to intervene in the writ proceedings i.e., S.B. Civil Writ Petition Nos. 89/2014 and 88/2014, they are in appeal.

8. Mr. Dhand has emphatically argued that as the appellants/writ-petitioners, in fact, had more than the stipulated amount of deposit of Rs. 4 lacs in their bank on the last date of submission of the application form, their candidature ought not to have been rejected for their mere failure to provide the details thereof in their application forms. According to the learned counsel, the process being one for awarding a public contract, the respondent-authorities were obligated to act in a fair and transparent manner and thus, the appellants/writ-petitioners, having been selected in the draw, their representations disclosing the particulars of their deposits, as required, ought to have been accepted. Mr. Dhand has urged that the learned Single Judge, in the backdrop of the earlier round of litigation, did err in law and on facts in refusing to interfere.

9. We have examined the recorded facts and the documents on record. We have taken note of the arguments advanced as well.

10. That the requirement of the deposit of Rs. 4 lacs in the form, as specified in the advertisement and the brochure, is a criterion of eligibility, is an admitted fact. That the appellants/writ-petitioners had not made this disclosure, as required in their application form, is also not in dispute. The reasons cited by the IOCL, as quoted hereinabove, evince that on the last date of submission of the application form, the appellants/writ-petitioners did not have deposits of Rs. 4 lacs in their bank. This finding seems to have been recorded on the basis of a scrutiny made to this effect.

11. We have perused as well the orders dated 05.12.2013 and 09.12.2013, whereby in the earlier writ proceedings, the appellants/writ-petitioners were granted the liberty to file a suitable representation along with proof of the required deposit prior to the last date of submission of the application form. The same, per se, does not demonstrate that this Court had either accepted the appellants/writ-petitioners claim of such deposit as on the relevant date, or had directed the IOCL to finalize the process on the basis thereof. On the other hand, IOCL was only required to consider and decide the representations within a time frame of two months by a speaking order.

12. A bare perusal of the communication dated 16.12.2013 from the IOCL, discloses that apart from reiterating its reasons earlier recorded to reject the candidature of the appellants/writ-petitioners, it was mentioned as well that they had never claimed such deposit in their application form. Their representations were, thus, rejected.

13. In the above background, in our comprehension, the learned Single Judge rightly held, with reference to the relevant clauses of the advertisement and the brochure, that the application once submitted, could not have been allowed to be improved upon or modified at a subsequent point of time as by the relevant stipulation, an even plane to all the candidates to compete was sought to be secured.

14. On a cumulative consideration of the aspects, as detailed hereinabove, we are of the considered opinion that the impugned action of the IOCL cannot be faulted with. Not only a public participatory process ought to be strictly governed by the professed norms prescribed there for, any deviation therefrom is impermissible. The appellants/writ-petitioner, having failed to disclose, in their application, the particulars of their deposit, as required as a condition of their eligibility, their plea to be granted further opportunity to furnish the same at a later point of time, cannot be sustained. Even otherwise, having regard to the reasons recorded in the order rejecting their representations, we see no cogent or convincing reason to interfere in the impugned judgment and order.

15. The appeals lack in substance and are dismissed. The stay applications also stand dismissed. A copy of this order be placed in the connected file.