
(2010) 05 RAJ CK 0062
In the Rajasthan High Court

Prem Pal Singh and Kewal Ram Meghwal	APPELLANT
Vs	
IOC and Others	RESPONDENT

Date of Decision : 12-05-2010

Acts Referred:

Citation : (2010) 05 RAJ CK 0062

Hon'ble Judges : P.C. Tatia, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Prakash Tatia, J.—Heard learned Counsel for the parties.

2. These 2 writ petitions are decided by this common judgment by taking the facts of SBCWP No. 10524/2009 as there is only difference of category of the allottee as one has been allotted the Gas Distributorship under the category of Para-Military Personnel and another in the category of SC Category and there is difference of villages, but rest of the facts are common.

3. The petitioner a dealer of Indane Distributorship at Balotra, District Barmer which was given under the Para Military Personnel Category Market Plan 1996-1998 as the petitioner's father being Dy. Commandant in BSF has laid down his life for the Nation while fighting with terrorists, has preferred this writ petition to challenge the action of the respondents to give the LPG Cylinder Distributorship under the Rajeev Gandhi Gramin LPG Vitarak Yojana (herienafter referred to as the Scheme).

4. According to learned Counsel for the petitioner, the petitioner being the son of Ex-Army Personnel has been given LPG Gas Distributorship because of the fact situation and the respondents themselves have prescribed the maximum limit to distribute the gas cylinder for each shop for the town upto population of 10 lacs to be 8000 cylinders per month. The petitioner yet has not reached to the limit of 8000 cylinders distribution for his dealership. The respondents who are having monopoly in this trade decided to give new agencies under the Scheme. It is

submitted that at one place, the petitioner is not getting the adequate consumers/customers and therefore, is not getting the adequate return and now the respondents are making it very competitive by opening more retail outlets in the nearby area and in the area where the petitioner's dealership is running. It is also submitted by learned Counsel for the petitioner that since it is a controlled commodity, therefore, customers can be provided on the basis of booking of the gas cylinders. Had it been an open market commodity the petitioner would have competed with all others but because of it being a controlled item, the petitioner cannot compete. The petitioner therefore, prayed that the respondents may be directed to cancel the process of giving distributorship for 4 places namely Jasol, Gudamalani, Asotra and Indrana as per advertisement dated 17.10.2009 and further the respondents may be directed to make correct assessment of whole situation and take departmental action against the authorities responsible for making such impractical assessment for opening the distributorship in the four places namely Jasol, Gudamalani, Asotra and Indrana.

5. Learned Counsel for the respondent No. 5 Sh. Arun Bhansali submitted that the petitioner has not challenged the Scheme as such. The said scheme, copy of which is placed on record as Annex.R/5/1 clearly suggest that after thoughtful consideration, the scheme was framed so that the LPG Gas may reach to the more public and for that purpose after good exercise, the locations were identified, schedule of which is placed on record as Annex.R/5/2. The petitioner has no legal right to prevent the respondents from opening other outlets for the distribution of LPG Gas.

6. Learned Counsel for the respondents No. 2 to 6 Sh. Om Mehta submitted that in the license to the petitioner itself it is clearly mentioned that the corporation reserves the right without any reference or consent of the distributor to appoint one or more additional distributor in the same territory referred in Clause No. 1A of the agreement. Therefore, the petitioner has no occasion to challenge the action of the respondent-company as the petitioner by open eye entered into this agreement.

7. Learned Counsel for the respondent Sh. Vijay Bishnoi adopted the arguments of both the counsels and also raised various other grounds.

8. I considered the submissions of learned Counsel for the parties and perused the facts of the case.

9. It is true that petitioner being son of a person of paramilitary person got the Gas Distributorship, but he himself was knowing it well that new and more dealers can be appointed even by his own gas supply agency. In view of this fact alone, the petitioner cannot have an *locus standi* to challenge the decision to give more outlets in the area. Be it as it may be, another contention of the petitioner is that there is limit fixed by the respondents themselves that for the town upto 10 lacs of population, the dealer can distribute cylinders upto 8000 and since the petitioner has not achieved that target, therefore, no new outlet can be opened

is also of no help to the petitioner because of the reason that said circular clearly mentions that, that will be the revised ceiling limit of making available of cylinders to the dealer and it nowhere says that unless this target is achieved by one dealer no new outlet will be opened. From perusal of the scheme it is clear that the location of setting up LPG Distributorship are required to be done in accordance with the scheme after examining potential of average monthly sale of 600 LPG cylinders of 14.2 kg and 1800 customers with monthly per capita consumption of about 5 kg and in the light of the other considerations referred in the scheme. It appears from the manual for selection of the distributorship under the Scheme that the issue of supply to the rural areas have been considered and it has been observed so:

The concept was appreciated and accepted by MoP&NG. The new business model for distribution of LPG in Rural Area has been named by MoP&NG as "Rajiv Gandhi Gramin LPG Vitrak (RGGLV) and the underlying philosophy of the scheme is to provide income generation opportunity to youth and empower women at the village level itself. MoP&NG advised the broad guidelines for selection vide its letter No. P-20020/22/2009-Mkt. dated August 6, 2009 and advised OMCs to formulate detailed guidelines.

10. The above scheme clearly suggests that the decision was taken consciously after taking into account the fact that there is a substantial increase in the LPG users in urban and semi-urban areas, but so far as rural areas are concerned, that the use is low because of the non-availability of the distributors.

11. In view of the above reasons, the petitioner firstly failed to establish that he acquired any right to prevent even his own gas supply agency to open any outlet in the area because the petitioner agreed to opening of other outlets in the area by signing the agreement between him and the IOC, secondly, the policy decision was taken to provide the LPG Gas to the rural public and for that purpose under special scheme if new outlets are opened then natural consequence will have to follow and the public interest is required to be protected over personal interest. It is further worthwhile to mention here that as per the petitioner himself the distance of the villages Jasol 6 kms, Gudamalani 90 kms, Asotra 14 kms and Indrana 24 kms from the place of the petitioner's village, therefore, on that basis also, the petitioner is not entitled to any relief.

12. In view of the above, both the writ petitions of the petitioner are dismissed.