

---

**(2014) 08 OHC CK 0008**  
**In the Orissa High Court**  
**Case No : W.A. No. 173 of 2014**

Raghunath Jagadala

APPELLANT

Vs

Union of India

RESPONDENT

---

**Date of Decision :** 14-08-2014

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (2014) 08 OHC CK 0008

**Hon'ble Judges :** Amitava Roy, C.J;P. Mohanty, J

**Bench :** Division Bench

**Final Decision :** Dismissed

---

## Judgement

Amitava Roy, C.J.—The appellant-petitioner challenges the judgment and order dated 9.4.2014 passed in W.P. (C) No. 3090 of 2013 rejecting the appellant-writ petitioner's assailment of the norm of eligibility pertaining to size of the godown land to be offered for selection for LPG distributorship in the process involved.

2. We have heard learned counsel for the appellant. For the order proposed to be passed we consider it inessential to issue formal notice to the respondent no. 2.

3. Briefly stated, facts indispensable for the present adjudication are that in response to advertisement dated 25.3.2012 issued on behalf of the Indian Oil Corporation Limited(IOCL), Bharat Petroleum Corporation Ltd. (BPCL) and Hindustan Petroleum Corporation Ltd. (HPCL) initiating a process for selection for LPG distributors under various categories at locations in the State including the work at Bhubaneswar-Palasuni in the district of Khurda under "open category", the appellant-petitioner has offered his candidature. The site Bhubaneswar-Palasuni was identified to be under the control and management of the Indian Oil Corporation Limited(hereinafter referred to in short "IOCL") and in terms of the advertisement, the appellant-petitioner offered plot no. 730/1043, mouza-Sundarpur, Bhubaneswar, District Khurda located within 15 Kms from the site as godown land. Vide Letter dated 26.9.2012, the IOCL informed the appellant-

petitioner that he was ineligible for LPG distributorship as he did not have the minimum required dimension (26.15 meter x 27 meters) for godown land. Thereafter, the appellant-petitioner submitted a representation on 8.10.2012 for reconsideration of his land as the stipulation contained in the advertisement that the area of 26.15 mr. x 27 mr.) was not a mandatory criteria and that he did fulfill the other essentialities required under the Gas Cylinder Rules, 2004. According to the assertion of the petitioner, on 21.1.2013 the IOCL accepted his candidature and permitted him to participate in the selection process. Eventually however by its letter dated 29.1.2013, the IOCL intimated the appellant-petitioner that he was ineligible and ousted him from the process. He has contended that one Varsha Mahananda who had similarly offered land of dimension less than the area 26.15 mr. x 27 mr.) while applying for LPG Distributorship at the location Bomikhal, Bhubaneswar under the IOCL had not only been accepted to be eligible, but also have been favoured with appointment.

4. The appellant-petitioner sought to invoke the writ jurisdiction of this Court imputing discrimination and unfairness in action by the IOCL in rejecting his candidacy.

5. In its counter affidavit, the IOCL averred that the eligibility criteria for godown land to be of minimum area of 26.15 mr. x 27 mr had been stipulated in the advertisement and the accompanying brochure to ensure safe and convenient handling of LPG, as the commodity being hazardous substance, adequate unloading space was required to ensure safe and convenient unloading/loading of LPG cylinders. Apart from insisting that the appellant-petitioner did not have any legal right to question the tenability and/or justifiability of such criteria prescribed by the Corporation, it pleaded that the norm of minimum area 26.15 mr. x 27 mr. of the godown did not in any way infringe any legal or constitutional right of the appellant-petitioner. It asserted that the land offered by the appellant-petitioner did not meet the requirement of minimum area of 26.15 mr. x 27 mr. and thus he was rightly adjudged to be ineligible as a candidate for LPG Distributorship.

6. Learned Single Judge on consideration of the pleaded versions of the parties negated the stand taken by the appellant-petitioner as he had not offered minimum area of 26.15 mr. x 27 mr. for the godown land prescribed in the advertisement and rightly adjudged appellant-petitioner to be ineligible. It was held that he having accepted the terms and conditions detailed in the advertisement and having filed the application for LPG distributorship, he could not be permitted to question the reasonableness thereof and turn around and challenge the process after his candidature was rejected on that count. That a writ court in exercise of its power under Article 226 of the Constitution of India ought not to interfere with the terms and conditions of the tender unless the same was held to be arbitrary or mala fide was observed. Learned Single Judge was of the opinion that in the facts and circumstances as no such case of arbitrariness or mala fide in prescribing the minimum size/dimension of the

godown land for selection of LPG distributorship was established, no interference is warranted.

7. Mr. Rout, learned counsel for the appellant emphatically urged that as the requirement of minimum area of godown land 26.15 mr. x 27 mr. had never been contemplated to be an obligatory criteria, he could not be treated as ineligible. He argued that the learned Single Judge had grossly erred in holding otherwise which warranted interference with the impugned judgment and order. According to him, the action of the IOCL in accepting the candidature of Varsha Mahananda who had similarly offered the godown land measuring less than 26.15 mr x 27 mr. is apparently discriminatory, unfair and unjust and rejecting the candidature of the appellant-petitioner thus is constitutionally invalid.

8. On a consideration of the rival pleas, documents on records and arguments advanced, we are left unpersuaded by the grounds urged.

9. Para 7.1 (vi) of the Guidelines for Selection of Regular LPG Distributors applicable to the process and is extracted herein below for ready reference.

"vi. Should own a plot of land of adequate size (within 15 km. from municipal/ town/village limits of the location offered in the same State) for construction of godown for storage of 8000 KG of LPG in cylinders or ready LPG cylinder storage godown as on the date of application. As per Gas Cylinder Rules, 2004, the floor area of the storage shed for storing 8000 KG LPG in cylinders should be 80 sq. meters. The length of the storage shed should not be more than 1.5 times of width of storage shed. There should be clear minimum safety distance of 7 meters between storage shed and the boundary wall/fencing. The plot of land with minimum dimension of 26.15 metres by 27 metres is adequate. It should be freely accessible through all weather motorable approach road (public road or private road of the applicant connecting to the public road) and should be plain, in one contiguous lot, free from live overhead power transmission or telephone lines. Canals/Drainage/Nallahs should not be passing through the plot. The land for construction of LPG godown should also meet the norms of various statutory bodies such as PWD/Highway authorities/Town and Country Planning Department etc."

10. As it transpires from hereinabove, in terms thereof, a candidate applying for LPG Distributorship as in the instant case has to offer a plot of adequate size for construction of godown for storage of 8000 Kg. of LPG cylinder or a ready LPG storage godown as on the date of application. A plot of land for such godown with minimum dimension of 26.15 mr. x 27 mr. has been envisaged to be adequate.

11. In this view of the matter, it cannot be said that as per the stipulation contained in the above clause of the guidelines governing the selection process, the minimum dimension of the godown land to be offered by a candidate has to be essentially 26.15 mr. x 27 mr.

12. Having regard to the reasons set out in the counter of the IOCL, such prescription is not irrelevant, irrational or uncalled for. The authorities having modelled this requirement being satisfied about the essentiality thereof, more particularly having regard to the safety and security aspects in general public interest, the challenge to the validity thereof does not commend for acceptance. The IOCL being the best Judge of the procedural imperatives, the stand of the appellant/petitioner is unsustainable in law.

13. There is no dispute that the size of the godown offered by the appellant-petitioner is not in conformity with the stipulation of 26.15 mr. x 27 mr. as contained in para 7.1(vi) of guidelines for selection of regular LPG distributorship. It is not his case that the said clause is inapplicable to the selection process. The contention that this requirement is not mandatory also cannot be sustained on a plain reading of the text of para 7.1(vi) of the guidelines. The appellant-petitioner's insistence that he had offered the land sufficient for storage of 8000 kg. of LPG cylinders by itself cannot be permitted to dilute the norm of minimum area of 26.15 mr. x 27 mr.

14. In our considered view, learned Single Judge is perfectly justified in refusing to interfere with the decision of the IOCL in rejecting the appellant-petitioner's candidature. We too, in the facts and circumstances of the case, have not been led by any material on record to conclude that rejection of the candidature of the appellant-petitioner is vitiated by any arbitrariness or mala fide on the part of the IOCL. The reference of the case of Varsha Mahananda per se does not improve the case of the appellant-writ petitioner he having failed to comply with the requirement of para 7.1(vi) of the guidelines for selection of regular LPG distributors.

15. The appellant-petitioner having failed to comply with the mandatory stipulation of the godown with a minimum area of 26.15 mr. x 27 mr., we see no reasonable ground to interfere with the decision impugned.

16. The appeal lacks in merit and accordingly dismissed.