

(2014) 08 AHC CK 0273

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 42179 of 2014

Rakesh Kumar

APPELLANT

Vs

Indian Oil Corporation Limited

RESPONDENT

Date of Decision : 13-08-2014

Acts Referred:

Citation : (2014) 9 ADJ 336 : (2014) 106 ALR 457 : (2014) 5 AWC 5241

Hon'ble Judges : Vivek Kumar Birla, J;Amreshwar Pratap Sahi, J

Bench : Division Bench

Advocate : K.M. Garg, Advocate for the Appellant; Prakash Padia, Advocate for the Respondent

Judgement

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Amreshwar Pratap Sahi and Vivek Kumar Birla, JJ.—Heard Sri K.M. Garg, learned Counsel for the petitioner and Sri Prakash Padia, learned Counsel for the respondents Indian Oil Corporation Limited. We have heard learned Counsel for the parties and we do not find it necessary to grant any time for counter-affidavit in this case as the matter can be disposed of finally on the basis of the documents which are undisputed and are on record.

2. The petitioner applied for LPG distributionship and his candidature has been rejected by the impugned order on the ground that the petitioner has offered a land for showroom indicating the land in the name of one Jeevan Kumari. The respondents have opined that the relationship of 3rd party does not come within the definition of "Family Unit" as contained in Brochure as such petitioner does not meet the eligibility criteria.

3. Sri Garg submits that the eligibility criteria in relation to the land to be offered is provided for in the brochure contained in Clause 6.1 (vii and viii) above which is to the following effect:-

" "Own" means having ownership title of the property or registered lease

agreement for minimum 15 years in the name of applicant/family member (as defined in multiple distributorship norm of eligibility criteria) as on the last date for submission of application as specified in the advertisement or corrigendum (if any). In case of ownership/co-ownership by family member(s) as given above, consent in the form of a Notarized Affidavit from the family member(s) will be required.

In case the land is jointly owned by the applicant/member of "Family Unit" (As defined in multiple dealership/distributorship norm) with any other person(s) and the share of the land in the name of applicant/member of the "Family Unit" meets the requirement of land including the dimensions required, then that land for godown/showroom will also qualify for eligibility as own land subject to submission of "No Objection Certificate" in the form of an Notarized Affidavit from other owner(s)".

4. It has further been pointed out that the application form in Column 10 against the column of the name of owner land/Leaseholders, the name of lessor has been mentioned instead of the petitioner who is the lessee under the registered deed. This appears to be an inadvertent mistake on account of the words used against column 10 aforesaid, whereas the document admittedly on record is in the name of the petitioner which was filed alongwith the application form. Thus, it was a valid lease deed duly executed in favour of the petitioner and according to Sri Garg, it clearly conforms to the aforesaid requirement under the brochure as also under the application form.

5. Sri Padia on the other hand contends that the name of Jeevan Kumari has been mentioned as a relation/3rd party, and therefore, the objection of 3rd party definition under "Family Unit" has been taken.

6. Having considered the submissions raised what we find that the name of lessor is incorrectly mentioned as Jeevan Kumari. It is the name of the petitioner that ought to have been mentioned against the said column No. 10. This apparently is an inadvertent error while filling of the application form.

7. According to the Brochure Clause 8.5 such deficiencies in the application form can be permitted to be corrected upon being pointed out through a letter being sent to the applicant.

Clause 8.5 of the Brochure is quoted hereinunder:

"8.5 Procedure For Receipt of Application.--Application would be received in sealed envelope only. After application is received, serial number would be put on the envelope and also recorded in a "Register". Acknowledgment for applications received will be sent to the applicants.

In case deficiencies are found in the application, a letter would be sent to the applicant to rectify the deficiencies within a specified period of time."

8. A perusal of the said clause therefore allows such a deficiency to be corrected

which opportunity does not appear to have been extended to the petitioner and the impugned order has been passed rejecting his candidature.

9. Sri Prakash Padia submits that no further action till date has been taken with regard to the finalization of the distributionship and consequently this aspect can be reconsidered.

10. For the reasons recorded hereinabove, we allow the writ petition and quash the order dated 31.1.2014 as issued on 14th July, 2014 and received by the petitioner on 22.7.2014. The respondents Indian Oil Corporation shall give an opportunity to the petitioner to correct the said error in the application form as per Clause 8.5 indicated above. In the event, the correction is carried out then the respondent Indian Oil Corporation shall proceed further to process the application form and the candidature of the petitioner in accordance with law. A certified copy of this order shall be produced before the respondent Corporation alongwith an application within two weeks from today. Let a copy of this order be supplied to the learned Counsel for the petitioner by Tuesday next.