
(2012) 03 JH CK 0058

In the Jharkhand High Court

Case No : Writ Petition (C) No. 226 of 2011

Ranjeet Kumar Singh

APPELLANT

Vs

Hindustan Petroleum Corporation Limited and Others

RESPONDENT

Date of Decision : 20-03-2012

Acts Referred:

Citation : (2012) 3 JLJR 247

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Advocate : Ashutosh Anand, for the Appellant; Delip Jerath, for the Respondent

Final Decision : Allowed

Judgement

N.N. Tiwari, J.—In this writ petition, the petitioner has prayed for quashing the order dated 20.12.2010 contained in Reference No. RKB/RET (Annexure-5) issued by the respondent No. 2 whereby the said respondent has rejected the petitioner's application for dealership on the ground that the petitioner has not submitted the affidavit in original alongwith the application, as per the Appendix "A". The said order has been challenged by the petitioner mainly on two grounds. Firstly, that though the petitioner had submitted the affidavit in original alongwith the application, as per the Appendix "A", the same has been replaced by the respondents only in order to favour L1 tenderer. Secondly, that the affidavit, as per the Appendix "A", is not required in original.

2. Clause 12(H) requires submission of certified copies of the original documents, subject to the condition that the original has to be produced at the time of interview, if needed. It has been submitted that even if there was some shortage in the documents, the petitioner was not given any opportunity to meet out the same and the alleged shortage of the documents cannot be said to be a material shortage or deficiency in the application. The impugned order is, thus, unjust, arbitrary and illegal and is liable to be quashed.

3. The writ petition has been contested by the respondents-Corporation. It has

been, inter alia, stated that Clause 12(G) of the Appendix "A" requires that the original affidavit alongwith the application has to be submitted with the application. But the petitioner has not enclosed the original affidavit as per the Appendix "A" and as such the petitioner's application has been rejected due to the said deficiency. The respondents have denied the allegation that they have connived with L1 and that the application of the petitioner was tampered with in any way.

4. I have heard learned counsel for the parties and considered the facts and materials on record. The petitioner's application has been rejected by the impugned Annexure-5 on the ground that the affidavit as per the Appendix "A" has not been submitted alongwith the application. Though the petitioner has claimed that the affidavit was submitted in original as per the Appendix "A", the said fact has been denied by the respondents. The said dispute of facts cannot be adjudicated upon and decided in writ jurisdiction of this Court.

5. However, on close scrutiny of Clause 12(H) and Clause 12(L) read with Clause 12(G), I find no clarity of term for requirement of submission of the affidavit in original, as per the Appendix "A", alongwith the application. Further, the said deficiency does not appear to be material, entailing summarily rejection of the petitioner's application without giving him any opportunity to meet out the same. The impugned order, thus, cannot be said to be just, fair and reasonable. Even if there is such deficiency, the respondents should have provided an opportunity to the petitioner to meet out the same.

6. For the above reasons, the impugned order contained in Annexure-5 cannot sustain and is, hereby, quashed. This writ petition is allowed. The respondents are directed to provide an opportunity to the petitioner to meet out the said deficiency, if it is so giving him specific time so that the petitioner's, application be also considered alongwith the other applications. The interim order dated 24.1.2011 is terminated.