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**(2015) 07 CAL CK 0099**  
**In the Calcutta High Court**  
**Case No : Writ Petition 7915(W) of 2012**

Rita Roy and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

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**Date of Decision :** 29-07-2015

**Acts Referred:**

**Citation :** (2015) 07 CAL CK 0099

**Hon'ble Judges :** Subrata Talukdar, J

**Bench :** Single Bench

**Advocate :** Arunava Ghosh, Shamim-Ul-Bari and Indradeep Pal, for the Appellant

**Final Decision :** Dismissed

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## Judgement

Subrata Talukdar, J—The short point raised by the writ petitioners in this writ petition is that as on the date of the advertisement for grant of LPG distributorship under the Rajiv Gandhi Gramin LPG Vitrak (for short RGGLV) Schemes, the private respondent No. 7 did not possess the eligibility criterion with regard to residence. Yet, the private respondent No. 7 stood ultimately selected and was awarded the Letter of Intent (for short LOI) by the respondent-Indian Oil Corporation Limited (for short IOCL) till restrained by an interim order dated 4th July, 2012 by an Hon'ble Single Bench of this Court from taking any final decision on the appointment of the private respondent No. 7 as an LPG distributor without leave of this Court.

2. The said interim order has since been continued.

3. Sri Arunava Ghosh, Ld. Counsel appearing for the petitioners straightaway takes this Court to page 32 of the RGGLV selection brochure and submits that in terms of Clause 4(b) specifying the common eligibility criteria for all categories of applicants the mandatory condition by use of the word "should" has been laid down at Clause 4(b) as follows:--

"be a resident of the town/village(s) of the advertised RGGLV location."

4. Sri Ghosh, Ld. Counsel further argues that it is mandatory therefore that the applicant should be a resident of the advertised RGGLV location which, in this case was Village-Indas, District-Bankura. However, from the averments at paragraph 3 of the vacating application being CAN 9835 of 2013 filed by the private respondent No. 7 it is apparent that as on the date of the advertisement which was, in this case 27th October, 2010 the respondent No. 7 was a resident of Village Shyamnagar, P.S. Sonamukhi, District Bankura. It is further an admitted fact, according to Sri Ghosh, that the private respondent No. 7 subsequently applied for change of address from Village Shyamnagar to Village Indas, the latter being the advertised RGGLV location.

5. Therefore, Ld. Counsel argues that the residential status must be found to be valid and binding as on the date of the advertisement and, the advertisement does not contemplate acquiring such residential status/eligibility criterion subsequently.

6. On the abovenoted sole ground Sri Ghosh argues that the selection of the respondent No. 7 is liable to be set aside. Ld. Counsel further invites this Court to decide the legal issue raised by the petitioners as to the necessity of having the essential eligibility criteria such as residence on the date of the advertisement. Sri Ghosh points out that, if any other interpretation is given to the terms of the advertisement, the very purpose of fixing an eligibility criterion shall stand frustrated and, the advertisement rendered open-ended.

7. Per contra, Sri Ajay Chatterjee, Ld. Senior Counsel appearing for the private respondent No. 7 strongly argues that the eligibility criteria under clause 4(b) has a prefix which reads as follows:--

"Applicant applying."

8. According to Sri Chatterjee, Ld. Senior Counsel the correct construction of such eligibility criteria would be that as on the date of submitting his application, in other words the applicant applying for the RGGLV, such an applicant should be a resident of the advertised RGGLV location. Now taking this Court to several pages of CAN 9835 of 2013 as well as the documents annexed thereto, which is an application for vacating the interim order granted in favour of the petitioners, Sri Chatterjee submits that the father of the private respondent No. 4 has two houses respectively at Village Indas and Village Shyamnagar under Sonamukhi Development Block. Ld. Senior Counsel points out that several documents on the educational qualification acquired by the private respondent No. 7 as annexed to CAN 9835 of 2013 shall show in no uncertain terms that the private respondent No. 7 completed his education at Village Indas, that is from one of the houses owned by his father.

9. However, due to exigencies connected to cultivation of land the private respondent No. 7 had to reside at Shyamnagar frequently. Upon the advertisement being published on the 27th of October, 2010 the private respondent No. 7 intending to be an eligible applicant within the last date for

submitting the application applied for change of his ration and voter cards from the Shyamnagar address to the Indas address. Such applications were made on 21st November, 2010 and on 18th November, 2010. After acquiring his ration card from the Indus Panchayat Office on 21st November, 2010, the private respondent No. 7 participated in the LPG distributorship draw by submitting his application on 25th November, 2010.

10. At the second round of lottery the private respondent No. 7 stood selected and was in the process of completing the commissioning of the distributorship when the interim order passed in this writ petition put on hold his investment and his career.

11. Sri Chatterjee reiterates by reading the words "applicant applying" in clause 4 of the RGGLV brochure (supra) that it is clear as a mountain stream that the applicant was required to be a resident of the advertised location as on the date of applying. Therefore, since on the date of applying, i.e. 25th November, 2010 there was no ambiguity on the fact that the private respondent No. 7 was a legally recognized resident of Village Indas, his eligibility cannot be scrapped.

12. Sri Chatterjee makes the additional argument that Sri Ghosh's client, who is merely an unsuccessful candidate, is ineligible to make any submissions in respect of the ultimate selection of the private respondent No. 7. The eligibility, Sri Chatterjee reiterates, is on the date of applying and the date of the advertisement is immaterial.

13. Sri Debajyoti Datta, Ld. Counsel appearing for the respondent-Bharat Petroleum Company Limited (BPCL) places clause 15 of the Industry Record dated June 15, 2010. Ld. Counsel submits that from Clause 15 it is clear that there is no minimum residency period specified in the selection policy. In the absence of a minimum residency specified in the selection policy from the above noted Industry Record dated 15th June, 2010 and the same has been treated to be a part of "the manual of selection of RGGLV" and signed by all the oil companies, the grievance of the writ petitioners cannot have a foundation.

14. Sri Datta makes the further point that the last date for submitting applications was fixed on 26th November, 2010 by and within 5 pm. The addresses where the application forms were to be submitted within the deadline were also specified in the advertisement. Therefore, according to Sri Datta, Ld. Counsel, the applicants were required to show at the time of filing their applications that the necessary eligibility criteria including residency, stood fulfilled by them as on the last date of submitting applications.

15. A copy of the advertisement is placed by Ld. Counsel for BPCL for the benefit of this Court.

16. Having heard the parties and considering the materials on record this Court finds substance in the argument of Sri Datta, Ld. Counsel for BPCL that the advertisement was not open-ended but had a specific time period, i.e. between

its opening date, 27th October, 2010 to its closing dated on the 26th of November, 2010.

17. To the mind of this Court an interpretation which advances the purpose behind the rules provided the words employed by the rule makers are free from ambiguity, must be adopted. In other words, the true and legal meaning of an enactment is derived by considering the meaning of the words used in the enactment in the light of any discernible purpose or object which comprehends the mischief and its remedy to which the enactment is directed. The Hon"ble Supreme Court approved it as the "cardinal principle of construction". (GP Singh: Principles of Statutory Interpretation: 13th Edition)

18. This Court is of the further considered view that the English Dictionary (The Concise Oxford: 9th Edition) describes the word apply as a verb. Therefore, the expression "applicant applying" is required to be understood more in the nature of a verb rather than in the nature of a noun. Read in this context the RGGLV advertisement must be intended to obtain the best possible penetrative site in its target area from the eligible candidates, who must have the eligibility on the date of filing their applications on or before the closure date of the application. If arguments on behalf of the writ petitioners are required to be accepted, then the word "applying" would be quite superfluous and the advertisement could have stopped short by only mentioning as follows:-- "Applicant be a resident of the town/village(s) of the advertised RGGLV location."

19. Having regard to the above discussion this Court notices with respect the observation of a Constitution Bench of the Hon"ble Apex Court in Union of India Vs. Elphinstone Spinning and Weaving Co. Ltd. and Others etc., AIR 2001 SC 724 : (2001) 1 JT 536 : (2001) 1 SCALE 157 : (2001) 4 SCC 139 : (2001) 1 SCR 221 : (2001) 1 UJ 496 : (2001) AIRSCW 364 : (2001) 1 Supreme 269 which is as follows:--

"When the question arises as to the meaning of a certain provision in a statute it is not only legitimate but proper to read that provision in its context."

20. In the above context this Court is persuaded to read the submissions of Sri Chatterjee interpreting Clause 4 of the selection brochure purposively with the time limit for submitting applications fixed by the advertisement. To the mind of this Court use of the expression "applicant applying" would necessarily mean that the eligibility criteria should be considered to have been fulfilled by an applicant as on the date of submitting the application. Therefore, this Court is persuaded not to accept the claim of the petitioners that the private respondent No. 7 cannot be held to be successful notwithstanding the fact that the private respondent No. 7 proved his residential status at Village Indas as on the date of submitting his application, i.e. 25th November, 2010 - the last date of acceptance being 26th November, 2010.

21. This Court also notices that by order dated 4th July, 2012 the Hon"ble Single Bench was pleased to direct the District Magistrate, Bankura to conduct an

enquiry and file a report as regards the residential status of the private respondent No. 7 on the date of the publication of the advertisement being 27th October, 2010 and, according to the enquiry, he was found not to be a resident of Village Indas, i.e. the advertised RGGLV location.

22. However, for the reasons as recorded above in this judgment the report of the District Magistrate, although factually correct, is not legally binding at this stage of final disposal on the basis of the above reasoning.

23. WP 7915 (W) of 2012 stands accordingly dismissed.

24. Interim order stands discharged.

25. Urgent certified photocopies of this judgement, if applied for, be given to the learned advocates for the parties upon compliance of all formalities.