

(2010) 07 OHC CK 0007
In the Orissa High Court
Case No : Writ Petition (C) No. 3360 of 2010

Sanghamitra Singh

APPELLANT

Vs

Indian Oil Corporation and Another

RESPONDENT

Date of Decision : 08-07-2010

Acts Referred:

Citation : (2011) 2 OLR 589

Hon'ble Judges : L. Mohapatra, J;C.R. Dash, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

L. Mohapatra, J.

1.The petitioner in this writ application prays for quashing the list of empanelled candidates for Indane Distributorship issued by the Indian Oil Corporation Ltd. (Annexure-1).

2. Case of the petitioner is that she submitted an application on 19.12.2007 before the opposite parties in pursuance of an advertisement published in a local newspaper on 17.11.2007 to be appointed as L.P.G. Distributor. Her further case is that though she fulfilled all eligibility criteria prescribed by the opposite parties 1 and 2 for awarding distributorship, she was not selected having not been given one more mark for the additional educational qualification and that had she been given one mark for the additional qualification, she would have stood first instead of second at the time of selection. According to the petitioner, she being a Postgraduate had been awarded 12 marks and for the additional qualification of diploma in "Nrutya Bhaskar" in Odissi dance from Pracheen Kala Kendra, Chandigarh, she should have been awarded one more mark.

A counter affidavit has been filed by the opposite parties 1 and 2 in which it is stated that petitioner had got an additional qualification as reflected in the application form, is not correct. In the application form at serial No.9, the petitioner has mentioned about the additional qualification as professional degree

and also submitted a provisional mark sheet in support thereof. However, in terms of the brochure, professional qualification can include only technical, Law, Medical, Management Graduate, Chartered, Cost Accountant or higher qualifications, such as, BE, B. Tech, MBA, CA or equivalent minimum four years post 12th. In view of the above, the petitioner had not been awarded one mark against the qualification of professional degree as the diploma obtained by the petitioner does not come within the definition of professional degree. Another counter affidavit has been filed by opposite party No.3 supporting the stand taken by opposite parties 1 and 2.

3. In order to appreciate the contention of the learned counsel for the parties, it is necessary to look in to the brochure itself. Clause III of the brochure attached to the counter affidavit prescribes the norms for evaluating the candidates. Out of 100 marks, 15 marks are kept for educational qualification. The relevant portion of the brochure relating to educational qualification is quoted below :-

EDUCATIONAL QUALIFICATION (as on date of Application)

Basic

Matriculate/SSC/Xth Pass 7

XIIth pass, 8 Graduate 10 Post graduate or higher 12 Qualifications

Based on information & documents given in the application

Additional Qualification, if any, Diploma/Degree

Basic qualification plus 1 mark for Additional qualification any diploma/degree

Professional

Technical/Law/Medical/ 15 Management/Graduate/ Chartered/Cost Accountant or Higher qualifications BE, B.Tech, MBA, CA or equivalent minimum 4 years post 12th.

4. There is no dispute that the petitioner having a Postgraduate/ higher qualification, had been awarded 12 marks. The brochure provides that for additional qualification, if any, such as, diploma/degree, one mark can be awarded, i.e., marks for basic qualification plus 1 mark for additional qualification, if any, such as, diploma/degree. According to the petitioner, she having obtained a diploma in "Nrutya Bhaskar" and the said diploma having been recognized, she should have been awarded one more mark apart from the basic qualification mark obtained by her to make it 13. Once this contention of the petitioner is accepted she becomes first in the select list, opposite party No. 3 having secured a fraction of one, less than the petitioner. The application form submitted by the petitioner annexed to the counter of opposite parties 1 and 2 as Annexure-B/1 while filling up the form, the Diploma in "Nrutya Bhaskar" obtained from Pracheen Kala Kendra, Chandigarh has been mentioned against the column professional degree and so far as column additional qualifications is concerned,

the petitioner has written Ph.D Continuing.

5. As is evident from the brochure, professional degree shall include the Technical/Law/Medical/Management Graduate/Chartered/Cost Accountant or higher qualifications/BE, B.Tech, MBA, CA or equivalent minimum 4 years post 12th. A diploma in "Nrutya Bhaskar" even from a recognized institution, is not a professional degree and, therefore, the petitioner could not have been given any mark in respect of the said additional qualification stated to have been obtained by her, the same not being a professional degree as defined in the brochure.

6. Though it was contended by the learned counsel for the petitioner that it was a mistake on the part of the petitioner while filling up of the application form, the opposite parties 1 and 2 should not take the advantage of such a mistake. We find from the averments made in the counter affidavit as well as Annexure-C/1 filed by opposite parties 1 and 2 that the course undertaken by the petitioner from Pracheen Kala Kendra, Chandigarh is not a professional course but the same can be used for becoming an artist of performing arts as well as to become a teacher. Be that as it may, the petitioner having committed a mistake in filling up of the form itself and having indicated the said additional qualification as a professional degree, now she cannot turn around and say that the above diploma obtained by her should be treated as an additional qualification.

7. Apart from the above, we also find that opposite party No.3 has already been selected by the opposite parties 1 and 2 and it is stated in the counter affidavit filed by opposite party No.3 that huge investments have been made in the meantime. Therefore, it will not be appropriate on our part to accede to the prayer of the petitioner at this stage.

8. For the reasons stated above, we do not find any merit in this writ application and dismiss the same.

C.R. Dash, J.

9. I agree.