
(2015) 08 MP CK 0055
In the Madhya Pradesh High Court
Case No : Writ Petition No. 3350 of 2014

Sanghmitra Mandeliya

APPELLANT

Vs

Indian Oil Corporation

RESPONDENT

Date of Decision : 13-08-2015

Acts Referred:

Constitution of India, 1950 — Article 226, 227

Citation : (2015) 08 MP CK 0055

Hon'ble Judges : Sujoy Paul, J

Bench : Single Bench

Advocate : Vivek Jain, for the Appellant; A.K. Jain, Advocates for the Respondent

Final Decision : Dismissed

Judgement

Sujoy Paul, J—By filing this petition under Article 226/227 of Constitution of India, the petitioner has prayed for following reliefs:-

"(1) The order Annexure P-1 may kindly be quashed and the selection of the petitioner dated 29.01.2013 be restored and the respondents be directed to issue a Letter of Intent.

(2) Cost and any other relief which this Hon''ble Court may deem fit may kindly be awarded."

2. The petitioner submitted her candidature for getting KSK dealership allocation in Mahgaon, District Gwalior. This is admitted by the parties that selection procedure for grant of KSK outlet is governed by a "brochure" issued by the respondents (Annexure P-2). The petitioner's case was considered for selection and by communication dated 29.01.2013 (Annexure P-11), she was informed that she has been shortlisted in the said selection. However, the said selection of petitioner was cancelled by order dated 23.03.2014 (Annexure P-1). It is cancelled on the singular ground that the petitioner did not submit "Residence Certificate" along with her application as per the terms and conditions.

3. Shri Vivek Jain, learned counsel for the petitioner contends that admittedly the said residency certificate was not filed along with the application/candidature. However, it was disclosed in the application by the petitioner that she is wife of Shri Gulab Singh Mandeliya, who is resident of District Gwalior. By placing reliance on circular of General Administration Department of Government of M.P. dated 28.10.2010, it is contended that the State Government opined that it is not necessary to issue domicile certificate to the wives and minor children of local residents. He submits that it appears that on the strength of this circular, the domicile certificate was not promptly issued in favour of the petitioner. However, the said certificate was issued on 20.08.2012. Shri Jain submits that it is actually received by the petitioner after submission of the candidature. The last date of submission of candidature was 28.08.2012. Shri Vivek Jain, by placing reliance on the return submits that admittedly, this residency certificate dated 20.08.2012 (Annexure P-6) was supplied to the respondents before the date of cancellation, i.e., 23.03.2014. The action of respondents is highly technical, unrealistic and improper in nature. Moreso, when the factum of marriage with a local resident and issuance of certificate before the cut-off date shows that petitioner was having requisite eligibility. In other words, Shri Jain submits that eligibility in relation to local resident was pre-existing. Merely because certificate could not be filed along with the candidature, rejection order is bad in law and runs contrary to the judgment of Supreme Court in case of Dolly Chhanda Vs. Chairman, JEE and Others, AIR 2004 SC 5043 : (2004) 98 CLT 756 : (2004) 4 CTC 796 : (2004) 8 JT 267 : (2004) 8 SCALE 422 : (2005) 9 SCC 779 : (2005) SCC(L&S) 734 : (2004) AIRSCW 5699 : (2004) 7 Supreme 297 .

4. Per contra, Shri A.K. Jain, learned counsel for the respondent relied on condition No. 10(g) and (h) of the brochure. Similar conditions mentioned in Clause 21 of same brochure were relied to contend that it was mandatory for the candidates to submit the relevant certificate along with the application. No addition/deletion/alteration is permissible subsequently. No additional documents whatsoever can be accepted. In the teeth of said provisions, the respondents have rightly rejected the candidature of the petitioner. In addition, it is urged that not only petitioner's candidature is rejected by note sheet dated 09.03.2014 (Annexure R-3), the subject location at Mahgaon is also cancelled. Hence, the petitioner has no right. In support of this contention, he relied on Smt. Meena Singh and Another Vs. The Indian Oil Corporation Ltd. and Others, (2012) 5 MPHT 234 ; Pankaj Mantri Vs. Indian Oil Corporation and Another, (2013) 3 MPHT 428 : (2013) 3 MPLJ 466 ; Jitendra Sharma Vs. Bharat Petroleum Corporation Ltd., (2014) 2 MPLJ 459 ; and, Shiv Kant Yadav Vs. Indian Oil Corporation and Others, AIR 2007 SC 1534 : (2007) 1 CTLJ 505 : (2007) 5 JT 257 : (2007) 5 SCALE 402 : (2007) 4 SCC 410 : (2007) 5 SCR 1000 . He relied on the order passed in W.P. No. 2489/2007 (Manish Kumar Shukla vs. Indian Oil Corporation Ltd. And another) (Annexure R-4). Lastly, he relied on an unreported judgment passed in W.P. No. 88/2009 (Devendra Kumar Vashishth Vs. IOC Limited). On the strength of this order, it is contended that petitioner is at liberty to submit his

candidature afresh, in the event fresh advertisement is issued. But after cancellation of selection, she has no right to pursue the present petition.

5. No other point is pressed by the learned counsel for the parties.

6. I have heard the parties at length and perused the record.

7. Clause 4.1 of the brochure reads as under:-

"The applicant should be resident of the concerned District under which the location has been advertised. The applicant should submit a Residence Certificate as per format given in Appendix C."

Relevant portion of clause 10 reads as under:-

"g) No addition/deletion/alteration will be permitted in the application once it is submitted.

h) No additional documents whatsoever will be accepted or considered after the cut off date of the application."

Similar conditions are mentioned in clause 21 (General Terms and Conditions) of the brochure.

8. The contention of Shri Vivek Jain is based on the judgment of Apex Court in Dolly Chhanda (supra). However, a plain reading of this judgment shows that it was a case relating to admission in educational institution/University. The appellant therein at the stage of second counseling, produced the correct certificate. In the peculiar facts of that case, the Apex Court opined in favour of appellant therein. There was no such bar of accepting documents in said case. However, it is seen that in the present case there is express bar in the "brochure" itself for submitting additional documents. Clause 4.1, in clear terms makes it clear that the applicant is required to submit a Residence Certificate at the time of submission of application. This Court in Manish Kumar Shukla (supra) considered the similar aspect. In that case, as per clause 10(e) of the advertisement, the attested copy of documents relating to qualification, medical certificate, availability of land, physical fitness were required to be filed. The medical certificate of petitioner therein was not duly attested by issuing authority. This Court after considering the earlier judgments passed in WP No. 9246/2006 (Krishna Shekhar Singh v. Union of India and others) and WP No. 7238/2006 (Manoj Tarwala vs. Indian Oil Corporation Limited & another), opined that clause 10(e) is a mandatory requirement. If such requirement is not fulfilled, the respondent-Corporation is entitled to reject the application. It is relevant to mention that in Manish Kumar Shukla (supra), relevant certificate was filed but it was not attested whereas in the present case, admittedly, the certificate was not filed along with the candidature. It was filed at a later stage. The "brochure" expressly prohibits that no additional document whatsoever can be accepted or considered after cut off date. The validity of brochure is not under challenge. The judgments cited by Shri Vivek Jain is not applicable in view of

specific provision in the brochure.

9. In view of aforesaid discussion, in my view, no fault can be found in the rejection order because the Residence Certificate was not filed by the petitioner along with her application. The rejection is in consonance with provision of brochure.

10. Resultantly, petition fails and is hereby dismissed. No cost.