
(2011) 09 AHC CK 0389

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 70433 of 2009

Sant Ram Singh

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 26-09-2011

Acts Referred:

Citation : (2011) 9 ADJ 208 : (2012) 1 AWC 684

Hon'ble Judges : Ashok Srivastava, J; Amitava Lala, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Hon"ble Amitava Lala, J.—On 28th December, 1997 an advertisement was published on the part of the Bharat Petroleum Corporation Limited (hereinafter called as "the Corporation") for allotment of L.P.G. Distributorship for location at Orai, District Jalaun. According to the petitioner, selection has to be made amongst the scheduled caste candidates. However, no allotment was made against such advertisement. On 18th August, 2000 again an advertisement was made. Various applications were received. A panel was prepared and ultimately the petitioner was placed at serial number 3 in the panel so prepared by the Dealer Selection Board. Several complaints were made regarding the panel list. Verification was done by the respective Oil Company. On 28th June, 2001 Letter of Intent was issued in favour of first empanelled candidate i.e. one Manoj Bhan Singh Verma. Being aggrieved, the petitioner invoked the writ jurisdiction of this Court by filing the Civil Misc. Writ Petition No. 34426 of 2001 (Sant Ram Singh v. Union of India and others) to obtain an order, which was disposed of by a Division Bench of this Court on 2nd November, 2001 with a direction upon the Secretary concerned to consider the representation expeditiously. The representation was forwarded to the appropriate authority on 29th December, 2001. However, the Government of India by its order dated 9th August, 2002 cancelled the distributorship for location at Orai, District Jalaun alongwith the other allotments made between January, 2000 to issuing the Government Order.

2. A writ petition was filed by the aforesaid selected candidate before this Court on 20th August, 2002 being Writ Petition No. 34749 of 2002 and obtained an interim order in his favour. In 2002 Supreme Court of India was pleased to direct to transfer all the writ petitions pending before the respective High Courts before it and, accordingly, the Writ Petition No. 34749 of 2002 was also transferred to the Supreme Court. Supreme Court was pleased to appoint a two members Committee to examine the allotment made by the concerned Dealer Selection Boards and after obtaining the report, as per enquiry, cancelled various allotments inclusive of allotment made to the first empanelled candidate of the present writ petition on 7th November, 2008.

3. The petitioner made a representation to an authority of the Corporation on 03rd March, 2009, when the respondent Corporation has informed on 3rd April, 2009 under the Right to Information Act that the Corporation reserves its right to re-advertise for appointment of distributorship as fresh in lieu of such termination. Thereafter the writ petitioner filed a writ petition being Civil Misc. Writ Petition No. 24778 of 2009 (Sant Ram Singh v. Union of India and others) before this Court and obtained an order for consideration of representation. The representation was considered by the authority and ultimately on 18th November, 2009 Territory Manager (LPG) Jhansi, Bharat Petroleum Corporation Ltd. i.e. respondent No. 3 rejected the claim of the petitioner on the ground that the merit panel comes to an end on commissioning of the distributorship and since the merit panel has already expired, so no Letter of Intent can be awarded to the petitioner.

4. According to the petitioner, the panel was not cancelled but the selection of the selected candidate was cancelled and when candidature of second empanelled candidate was also rejected on some other ground, he is entitled to be selected as third empanelled candidate.

5. According to us, such submission of the petitioner suffers from a misconception as soon as the Letter of Intent is issued in favour of the first empanelled candidate on the basis of the selection made by the selection authority, the panel is treated to be exhausted. Under no circumstances, it can be said that it is existable inspite of such allotment. Thereafter, when the selection of first empanelled candidate was cancelled, with the intervention of the Court or otherwise, it cannot be said that the cancellation of selection is restriction only with regard to the selected candidate alone but not with the panel. It is a matter of comparative assessment and if on the basis of such assessment a person has been selected, panel is treated to be exhausted immediately with such action and if it is recalled then entire order of selection based on comparative assessment will fall down, not the assessment of a candidate alone. In this regard paragraph 4 of an unreported judgment of Supreme Court passed in Special Leave to Appeal (Civil) No. 16474 of 2010 (M/s Bharat Petroleum Corp. Ltd. and another v. Ramesh Chand Trivedi) is relevant, which is quoted below:

Learned Counsel for the appellants submitted that the Central Government has taken a policy decision vide directive dated 17.4.2007 to re-advertisement the distributorship wherever the earlier allotment was set aside in pursuance of this Court's order, and not to allot it to the next person in the panel. The said policy cannot be said to be arbitrary or unreasonable or contrary to any rules. This Court had found that the selection process by the Board resulting in the selection of Naveen Gupta for the distributorship is illegal and vitiated due to extraneous consideration. If a comparative assessment made by a selection Board is vitiated, and the appellants decided to scrap the entire panel and readvertise the distributorship, the decision is not open to question. It cannot be contended that when the allotment in favour of the first person in the panel is set aside, the distributorship should automatically be allotted to the eligible applicant who is shown as second in the panel. Where the allotment was cancelled on account of irregularity in selection and preparation of panel, the decision to have a fresh selection instead of using the panel which was found to be vitiated, does not call for interference by Courts.

6. Therefore, we are of the view that there is no merit in the writ petition and the same is, accordingly, dismissed on contest, however, without imposing any cost.

7. In any event, passing of this order will in no way disentitle the petitioner to participate in any fresh selection, if held, subject to his eligibility.

Hon"ble Ashok Srivastava, J.

8. I agree.