

(2020) 01 PAT CK 0285

In the Patna High Court

Case No : Civil Writ Jurisdiction Case No. 15901 Of 2019

**Satish Prasad @APPELLANT@Hash Hindustan Petroleum Corporation
Limited And Ors**

Date of Decision : 18-01-2020

Acts Referred:

Citation : (2020) 01 PAT CK 0285

Hon'ble Judges : Ashutosh Kumar, J

Bench : Single Bench

Advocate : Bibhakar Tiwary, Shiv Kumar Dwivedy, Rajeev Prakash

Final Decision : Disposed Of

Judgement

1. Heard the learned counsel for the parties.
2. The petitioner has challenged the communication made to him by respondent no. 3 dated 12.07.2019 whereby he has been informed that his application for the purposes of his selection for running the retail outlet has been re-located to Group-III, though the petitioner had applied for the grant of license to run the outlet under Group-I.
3. The petitioner owns the land which has been shown in the application. However, inadvertently, the Khesra No. was wrongly stated in the aforesaid application.
4. Learned counsel for the petitioner submits that it is only an inadvertent error and the land which was offered is the same. No new case or document is introduced by the petitioner in as much as the description of the land in question is the same which was offered in the application but with the wrong Khesra number.
5. Learned counsel for the petitioner has also shown to this Court that the land in question belongs to his father has been inherited by him. However, in accordance with the guidelines for selection of retailers / outlets of the respondent / Oil Company, in case of any mismatch in the application, the group is required to be

changed. The selection is to take place from amongst Group-I category of applicants and in the absence of any applicant from that category, the applicants of Group-II will be considered. Similarly, if there is no candidate in Group - II, Group-III would be considered for grant of such license.

6. Learned counsel for the petitioner submits that such strict adherence to the terms of the brochure amounts to turning a blind eye to acknowledging the fact that there could be human mistakes and such mistakes can always be corrected. Had it been the case that a different Khesra No. was deliberately stated in the application for projecting a different land in order to fit in a specific category which is later sought to be changed, the situation would have been different.

7. In the present case, it has been submitted that because the description of the land is same, no mischief or misrepresentation can be read into such wrong description of land because of wrong Khesra number. Even otherwise, it would not be difficult for the oil company to discern whether such mistake was inadvertent or with a purpose. In that event, instead of asking for a clarification in the matter or accepting the clarification of the petitioner, an obdurate approach has been adopted by the respondent / oil company in relegating the candidature of the petitioner to a category which is way below the category of applicants who own the land over which such outlet is set up.

8. As opposed to the aforesaid contentions, learned counsel for the respondent / Oil Company has cited two Division Bench judgements of this Court viz L.P.A. No. 925 of 2012 disposed off on 18.07.2012 and L.P.A. No. 1159 of 2011 [2012 (2) PLJR 783] wherein it has conclusively been held that any decision of the oil company which is taken in consonance with the terms and conditions of the advertisement / brochure ought not to be lightly interfered with. In the later judgement, the applicant therein had omitted to mention that the charges were not framed against him by any Court of Law. The advertisement required a specific statement on oath that no Court of Law has framed any charge against the applicant. Only for omission of the word "by any Court of Law" even though it was a fact that no Court of Law had framed charges against the applicant therein, the concerned oil corporation had rejected the claim of the petitioner for being considered for LPG dealership. The learned Single Judge of the High Court had not approved of the decision of the Oil Company, holding such mistake to be inadvertent / clerical. However, the Division Bench in the aforesaid judgement differed with the view of the learned Single Judge and held that even if there was a typographical error, it could be a case of mischief or misrepresentation and it would be difficult to draw a line where error ended and mischief or misrepresentation began. As the surest way to be of the safer side, the Division Bench suggested that the best way to avoid any discrimination would be to strictly adhere to the standards mentioned in the advertisement.

9. Under similar facts and situation, in the former judgement referred to by the counsel for the respondent, the claim of the applicant was extinguished.

10. No doubt, it is a requirement of law that a Company which has the agency of the State has to strictly uphold the rigors by which it professes non-discrimination but in the present case, there appears to be a bona-fide / innocent mistake.

11. Nonetheless, in the event of there being a definitive pronouncement on the issue of permitting a bona-fide mistake to be corrected with the two Division Bench judgements of this Court holding that it would not be safe to depart from the standard provided in the advertisement, this Court finds itself in a quandary to issue any mandamus to the respondent / Oil Company to revisit the case of the petitioner; more so, when the claim of the petitioner has not totally been extinguished but has only been relegated to a group which is inferior to the group for which he had applied.

12. For the aforesaid reasons, no direction is being issued in the present case.

13. The petitioner ought to await his turn for selection, in case there are no applicants in Group-I or Group-II.

14. With the aforesaid observation / direction, this petition stands disposed off.