
(2008) 05 PAT CK 0007
In the Patna High Court
Case No : LPA No. 321 of 2000

Smt. Phuljhari Devi

APPELLANT

Vs

The Union of India and Others

RESPONDENT

Date of Decision : 13-05-2008

Acts Referred:

Citation : (2008) 3 PLJR 204

Hon'ble Judges : Shiva Kirti Singh, J;J.N. Singh, J

Bench : Division Bench

Advocate : L.N. Das and S. Dey, for the Appellant; B.K. Mangalam, for the Respondent

Final Decision : Dismissed

Judgement

Shiva Kirti Singh & Jayanandan Singh, JJ.—Heard learned counsel for the appellant. Nobody appears on behalf of respondent nos. 1, 2 and 3. Appellant is the writ petitioner whose claim has been rejected by the Writ Court by judgment and order under appeal dated 15th December, 1999.

2. It has been submitted on behalf of the appellant that the charts of marks obtained by different applicants for a retail outlet dealership of Indian Oil Corporation at by-pass road, Chapra town show that after the preparation of tabulation chart under the signature of the two members and the Chairman of the Selection Board, one of the members, Mr. Hashim respondent No. 3 enhanced the marks allotted by him to respondent no. 4 by total of six marks and as a result thereof, respondent no. 4 acquired the status of best candidate having highest marks.

3. According to learned counsel for the appellant, prior to such enhancement as per the tabulation chart bearing the signature of two members as well as the Chairman of the Selection Board, the writ petitioner had the highest marks and number one position among all the applicants. On that basis it has been submitted that the Writ Court should have accepted the claim of the appellant by

setting aside the selection of respondent no. 4 for the dealership in question and by directing the Indian Oil Corporation to grant the dealership in favour of the writ petitioner.

4. On going through the judgment under appeal, particularly paragraphs 4 and 4/1, and the copies of mark-sheets prepared by the individual members as well as the Chairman of the Selection Board which have been annexed as Annexure-R1 to the counter affidavit filed in the records of the Writ Petition, we find that the learned single Judge has come to a right conclusion that the marks originally awarded to the writ petitioner by two members were clearly interpolated by those two members and that led to a material change in the results making the writ petitioner the number one candidate and respondent no. 4 the second best candidate, although as per marks allotted by the members originally the respondent no. 4 had clear edge over the writ petitioner by 30 marks.

5. In view of factual position apparent from the records, it can not be disputed that the writ petitioner has not come with clean hands, so as to merit protection under writ jurisdiction. If we choose to give relief to the writ petitioner by ignoring the enhancement of marks in favour of respondent no. 4, it would clearly amount to ignoring similar favour by the concerned members in the case of the writ petitioner at an earlier stage of the selection process. This will amount to interference leading to perpetuation of an illegality that can not be the purpose of exercise of writ jurisdiction. Thus, on consideration of entire facts and circumstances, we find no good reason to take a different view than that taken by the Writ Court. Further, respondent no. 4 has been permitted to invest huge money and is running the retail agency for last several years. Hence, we find no merit in the appeal. It is accordingly dismissed. There shall be no order as to costs.