
(2012) 07 AP CK 0049

In the Andhra Pradesh High Court

Case No : Writ Petition No. 27310 of 2011

Sri Mathi Vidya Sagar

APPELLANT

Vs

M/s Hindustan Petroleum Corporation Ltd. and Others

RESPONDENT

Date of Decision : 04-07-2012

Acts Referred:

Citation : (2012) 6 ALT 232

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : E. Manohar, for the Appellant; M. Ravindranath Reddy, for RRs 1 and 2 and Sri Ch. Dhananjaya, for R3, for the Respondent

Final Decision : Allowed

Judgement

Hon'ble Mr Justice L. Narasimha Reddy

1. The 1st respondent published a notice dated 06-09-2010, inviting applications for selection of dealers of petroleum outlets at various places in the State of Andhra Pradesh, including the one, at Marteru, in West-Godavari District. The petitioner, the 3rd respondent and certain others submitted their applications. On evaluation of the applications and the enclosed material, the 2nd respondent placed the 3rd respondent at first place by awarding 92.5% marks, and the petitioner at the second place, with 88.8% marks. The petitioner submitted a representation dated 26-01-2010 to the 2nd respondent stating that the experience certificate dated 14-08-2010, submitted by the 3rd respondent is not genuine, and that he has authenticated information in this behalf. The complaint was referred to the Grievance Redressal Cell. Through order dated 31-08-2011, the 2nd respondent held that the petitioner failed to establish the allegation made by him. The same is challenged in this writ petition. The petitioner contends that though a irrebuttable evidence and proof was placed before the 2nd respondent about the fakeness of the certificate dated 14-08-2010, the 2nd respondent has brushed aside the objection on the basis of another certificate dated 30-08-2010, which was not submitted by the 3rd respondent along with

the application. Other grounds were also urged.

2. On behalf of the respondents 1 and 2, a counter-affidavit is filed. According to them, as many as 18 applications were received for the petroleum outlet at Marteru and that all the applications were evaluated strictly in accordance with the guidelines. It is also stated that the complaint of the petitioner was dealt with at various stages, duly giving opportunity to the petitioner and the 3rd respondent. Investigation is also said to have been conducted through two senior officials, and that the result thereof is indicated in the impugned proceedings.

3. Sri E. Manohar, learned Senior Counsel for the petitioner submits that the 3rd respondent filed an experience certificate said to have been issued by the proprietor of M/s Sunderam Petro Fill, Gopalapuram, by name, K. Nageswara Rao and that the person who issued it has addressed a letter dated 29-04-2011 to the Senior Divisional Retail Sales Manager, Indian Oil Corporation (IOC), to the effect that he did not issue the certificate in favour of the 3rd respondent. He contends that the letter dated 29-04-2011, and the covering letter dated 04-05-2011, issued by the Chief Public Information Officer (CPIO) of IOC would clinchingly prove that the experience certificate submitted by the 3rd respondent was a fake one.

4. According to him, the 3rd respondent has thereafter won over Sri Nageswar Rao, and to overcome the situation, the latter has pleaded illiteracy. He further submits that the verification of the facts revealed that Sri Nageswar Rao was a post-graduate and the plea taken by him is totally untenable. It is also his case that the 2nd respondent did not act in a dispassionate and impartial manner in this regard.

5. Sri M. Ravindranath Reddy, learned Standing Counsel for the respondents 1 and 2 submits that not only the 3rd respondent, but also 17 out of 18 candidates were awarded four marks under the heading "experience", and that the plea raised by the petitioner vis-à-vis the 3rd respondent was found to be not proved. He contends that this Court cannot sit as an appellate authority over the views expressed by an expert committee.

6. Sri Ch. Dhanamjaya, Learned Counsel for the 3rd respondent submits that his client was issued an experience certificate by Sri Nageswar Rao, an IOC Dealer, and the petitioner managed to get a letter of denial by exerting pressure upon Sri Nageswar Rao from the IOC. He submits that the letter dated 14-08-2010, as well as the one, dated 30-08-2010, were obtained much before the last date for submission of the applications, and that the 2nd respondent has closely scrutinised every fact, pleaded before him.

7. As many as 18 applications were received in response to a tender notice for appointment of dealer of a petroleum outlet at Marteru. The evaluation is done under nine headings, including the one of "experience". 17 out of 18 candidates were awarded four marks under this head. The 3rd respondent was placed at Sl. No. 1 with 92.5%, and the petitioner at second place, with 88.8% marks.

8. The guidelines framed by the 1st respondent provide for submission of representations to the grievance redressal cell, if a candidate has any grievance, as regards his non-selection. The petitioner availed that remedy and submitted that the 3rd respondent enclosed a fake certificate of experience. The certificate dated 14-08-2010 is said to have been issued by Sri Nageswar Rao, an IOC dealer, at Gopalapuram. The petitioner approached the PIO of the IOC, Hyderabad, and made a request to him, to find out whether its dealer at Gopalapuram has issued the experience certificate to the 3rd respondent, on 14-08-2010. The CPIO addressed a letter dated 04-05-2011 to the petitioner, stating that the said dealer did not issue experience certificate at 14-08-2010. The letter dated 29-04-2011 addressed by the dealer was also enclosed. It reads,

I have not given any Experience Certificate to Mr. Kakollu Vijaya, S/o. Basavayya, and I don't know who is this person is. So Consider that the experience letter which was submitted by him as a fake one. This is for your information.

9. The petitioner enclosed these two letters along with his complaint against the selection of the 3rd respondent. The record discloses that initially the Grievance Redressal Committee appointed one Investigating Officer, and when he examined Sri Nageswar Rao, the dealer of IOC, he denied the issuance of the certificate. However, a team of two officers were sent thereafter. It is before that team, that Nageswar Rao submitted a letter, stating that he signed a letter dated 29-04-2011, denying issuance of the certificate dated 14-08-2010, under pressure from the officials of the IOC, and being a person not knowing English, he signed that letter, without knowing the contents. The petitioner was quick to act and approached the IOC to inform him the qualifications of Nageswar Rao. The PIO informed the petitioner through their letter dated 11-10-2011, that Nageswar Rao is a post-graduate in Economics.

10. Obviously to overcome this development, the 3rd respondent submitted experience certificate dated 30-08-2010, said to have been issued by the same person, i.e. Nageswar Rao. The 2nd respondent took this into account and held that the petitioner failed to substantiate his allegation.

11. The procedure adopted by the 2nd respondent and his approach in the matter are not correct. The only experience certificate submitted by the 3rd respondent along with his application was the one, dated 14-08-2010, said to have been given by Nageswar Rao, an IOC Dealer. The said dealer has flatly denied the issuance of the certificate, when asked by the IOC, and in fact addressed letter dated 29-04-2011 in this regard. The effort made by Nageswar Rao to take complete about-turn is a futile exercise. The very fact that being a post-graduate in Economics, he pleaded that he does not know English, gives an impression that he has no regard for truth. No credibility can be attached to him.

12. Respondents 2 and 3 have fallen back on the certificate dated 30-08-2010, said to have been issued by the same individual i.e. Nageswar Rao, in favour of the 3rd respondent. It is not in dispute that the said certificate was not enclosed

to his application. In the process of evaluation, the authorities have to confine their consideration to the material, that is available on record. An applicant cannot be permitted to supplement the material thereafter. Viewed from any angle, the impugned order cannot be sustained.

13. Hence, the writ petition is allowed, and the impugned order is set aside. The 2nd respondent is directed to evaluate the application of the 3rd respondent once again, without reference to the certificates, dated 14-08-2010 and 30-08-2010, said to have been issued by Sri Nageswar Rao, a dealer of Indian Oil Corporation. If there exists any other material that is enclosed to the application, the same can be taken into account. The miscellaneous petitions filed in this writ petition also shall stand disposed of. There shall be no order as to costs.