(1993) 12 CAL CK 0001

In the Calcutta High Court

Case No : F.M.A.T. No. 2854 of 1992

Sri Satyendranath Mondal APPELLANT

Vs

Hindusthan Petroleum Corporation and Others RESPONDENT

Date of Decision : 23-12-1993

Acts Referred:
Constitution of India, 1950 — Article 14, 226

Citation : (1994) 1 CALLT 184 : 98 CWN 841 : (1994) 1 ILR (Cal) 199

Hon'ble Judges : Suhas Chandra Sen, J;Arun Kumar Dutta, J

Bench : Division Bench

Advocate : Arun Prokash Sircar, Subroto Bose, Nirmalya Mohan Bhattacharjee and Subir Banerjee, for the Appellant; Saktinath Mukherjee, K.K. Bandhapadhya, Pradip Tarafdar, Dinabandhu Daw and Sarat Kumar Sil, for the Respondent

Judgement

Arun Kumar Dutta, J.—The instant Appeal, along with three other Appeals, being F.M.A.T. Nos. 2824, 2879 and 2481 of 1992, are all directed against the judgment and order dated 10.8.92 passed by Susanta Chatterji, J. CO. Nos. 6113 (W) and 7023 (W) of 1988.

2. The writ petitioners, Kutubuddin Goldar and Satyendra Nath Mondal, in the aforesaid two writ petitions, had challenged the issuance of the letter of intent dated 19.4.88 by the Hindustan Petroleum Corporation Ltd. (hereinafter shortend into Corporation) in favour of the respondent No. 5, Radhakrishna Roy, offering him the Retail Outlet Dealership at Malancha, District 24-Parganas, in terms thereof.

3. The aforesaid Corporation had published an advertisement in the Bengali Daily Newspaper Ananda Bazar Patrika on 20-12-85 inviting applications from unemployed Graduates for appointment of a Dealer for Retail Outlet of their product in the area Malancha, District 24-Parganas (North), in terms thereof specifying the eligibility criteria for award of Dealership thereunder. The aforesaid two writ petitioners, the Respondent No. 5, Radhakrishna Roy (hereinafter referred to as Radhakrishna) and others had submitted applications to the

Corporation therefor. The Respondent No. 4, the Oil Selection Board (East) (hereinafter shortened into Board) was entrusted to select candidate for the purpose of appointment therefor. As it appears from the affidavit-in-Opposition affirmed by Sri Arunavo Roy Ma- hasay on behalf of the aforesaid Board on 8.2,89, the Board had interviewed 19 (nineteen) candidates in all, including the two writ petitioners and Radhakrishna on 9.12.87. In the said interview, the highest mark was obtained by the Respondent No. 5, Radhakrishna and the second highest mark was obtained by the writ petitioner, Satyendra Nath Mondal (hereinafter referred to as Satyendra), who were empanelled by it (Board) as eligible candidates for the purpose of carrying out field investigation. In terms of the selection so made by Board a letter of intent was issued by the Corporation in favour of the said Radhakrishna by letter dated 19.4.88 intending to offer him the Retail Outlet Dealership at Malancha, District 24-Parganas, in terms thereof on the conditions specified therein. The grievance of both the writ petitioners (in the aforesaid two writ petitions) is that the appointment so made in favour of Radhakrishna had not been made properly, and they had accordingly prayed for consideration of their respective candidates. The learned Trial Judge upon consideration of the materials on record had clearly held that the said Radhakrishna had deliberately suppressed material facts in his relevant application, as a result of which his selection by the Board could not be sustained. The learned Trial Judge had, accordingly, quashed the selection of Radhakrishna and had directed the Board to consider afresh the candidature of all the intending parties, including the writ petitioners in both the writ petitions, and others who had participated in accordance with law within a period of three months from the date of communication of the order in terms thereof for the reasons recorded at length.

4. Being aggrieved by the judgment and order so passed by the learned Trial Judge, the appellants in the relevant four Appeals before us have preferred the instant Appeals.

5. The point emerging for consideration before us is how far the learned Trial Judge was justified in quashing the selection of the Resporident No. 5, Radhakrishna Roy, by the Board, and directing the Board to consider afresh the candidature of all the intending parties, including the writ petitioners in both the writ petitioner and others who participated, the way he did.

6. Evidently and undisputedly, the advertisement inviting applications from unemployed Graduates for award of Dealership for Retail Outlet had specified therein certain eligibility criteria for making application and for award of Dealership therein, as appearing from Annexures "A" and "B" (collectively) to the writ petition filed by Satyendra, being CO. No. 7203 (W) of 1988. Some of the important eligibility criteria thereof are reproduced below :,-o

(i) "Employed/sllf-employed/temporary employed.

Only those who have remained unemployed during the period of twelve months preceding the date of application should apply. Further, those candidates who are employed in jobs which are not regular/not likely to become permanent or continue, would be considered eligible. Self-employed persons can also apply."

(ii) "Residence-Resident of the concerned District. However, if a candidate has studied at a place other than his home District the residence eligibility will be determined on the basis of the stay of his parents or legal guardian in the concerned District."

(iii) "Income-The candidate should not have income more than Rs. 24,000/- per annum. The income for this purpose would include income of the candidate, his/ her spouse, dependent children put together. Only in case the candidate happens to be dependent on his/her parents, his/her parents'' income will also be taken into consideration for computing the total income.

According to the writ petitioner-appellant-Satyendra, the Respondent No. 5, Radhakrishna, is not an eligible candidate for making application, nor, for award of the Dealership in terms of the aforesaid eligibility criteria indicated above on the following grounds, amongst others :-

(a) Radhakrishna is not an unemployed graduate.

(i) As stated in his Supplementary Affidavit affirmed on 6.3.89 Radhakrishna had already been appointed as Dealer of Cement at the time of filing application (before 20.1.86) by the Sub-Divisional Controller, Food and Supplies, Krishnagar, under Licence No. C22753/53/85 dated 5.8.85 at Majdia, Nabadwip. He had accordingly been acting as Dealer of Cement appointed by the State Government before the filing of his application and was not an unemployed person as such.

(ii) Apart from being a Dealer of Cement, Radhakrishna had also been appointed as M.R. Distributor during the year 1986 by the Sub Divisional Controller, Food and Supplies, Alipore, South 24-Parganas, under Licence No. I/GA/Rice/B5/86 at Village Sonakhali, Gosoba, 24 Parganas. He is also M.R. Distributor of Sugar and other Ration articles and supplies the said commodities to about 60 dealers. He had been working as M.R. Distributor long before his interview on 9.12.87 and the issue of letter of intentin his favour on 13.4.88. But he had suppressed the aforesaid facts in his relevant application and during his interview. The aforesaid facts do not appear to be disputed by the Respondent No. 5, Radhakrishna, himself in his Affidavit-in-Opposition affirmed on 14.2.90. His appointment as a Dealer of Cement and the awarding, of M.R. Distributorship to him on 21.11.86 appear to be admitted by him. All that he sought to contend is that Dealership of Cement and M.R. Distributorship are not Employment. He has further admitted that he is continuing with the aforesaid M.R. Distributorship. The sale of levy cement is, however, stated by him to have been stopped by the Government since January 1989 for nonsupply of levy cement. At the time of making the relevant application he was, therefore, admittedly, a Dealer of Cement, and at the time of his interview on 9.12.87 and issue of letter of intent in his favour by the Corporation on 19.4.88, he was also, admittedly, a Dealer of Cement and

M.R. Distributor. He contended in his aforesaid Affidavit-in-Opposition that he could at best be deemed to be a "Self-employed" person, and was thus eligible for the Retail Outlet Dealership in question. He had reiterated that he had remained "unemployed" during the period of twelve months preceding the date of his filing application for award of Retail Outlet Dealership, as advertised.

7. According to Black''s Law Dictionary (Abridged Fifth Edition) the dictionary meaning of "Employment," "Self-employed." and "Unemployed" are as follows :-

(i) Employment-Act of employing of state of being employed; that which engages or occupies; that which consumes time or attention; also an occupation, profession, trade, post or business, includes the doing of the work and a reasonable margin of time and space required in passing to and from the place where the work is to be done.

(ii) Self-employed-Working for oneself, with direct control over work, services, etc. undertaken and fees, charges, etc.

(iii) Unempolyed-1. not employed; without work. 2. not being used; idle-the unemployed people who are out of work.

8. Having regard to the dictionary meaning of the aforesaid three expressions, the Respondent No. 5 Radhakrishna could not, by any manner of means, be deemed to have been "unemployed" during the relevant point of time on his own admission.

9. Realising the difficult somewhat tardily, the said Radhakrishna sadly sought to belatedly contend in his aforesaid Affidavit-in Opposition, as already indicated, that he could at best be held to be a "Self-employed" person. In the absence of existence of any master and servant or employer and employee relationship in respect of his Dealership of Cement and M.R. Distributorship he could not be deemed to be an "employed" person. Self-employed person being eligible to apply for the award of Dealership in question, he could not be held ineligible for the said purpose. True it is, under the eligibility criteria specified in the relevant advertisement, self-employed persons could as well apply for the Dealership in question. But unhappily for the Respondent No. 5, Radhakrishna, there is not the nearest and faintest whisper by him within the four corners of his relevant application that he was a "serf-employed" person. Per contra, he had clearly indicated in his relevant application without the slightest ambiguity that he was an "Unemployed Graduate", having no present occupation [against Item No. 9 of the application form), not temporarily employed and/or self-employed (against Item No. 8(b) thereof], and neither a professional (employed/self-employed) (against Item No. 18 thereof). That he was a "Self-employed" person, by virtue of being a Cement Dealer and M.R. Distributor, as sadly and belatedly sought to be contended by him, does not appear to have been indicated by him anywhere within the four corners of his relevant application, as already indicated above. The aforesaid facts clearly appear to have been suppressed by him in his application and during his Interview with cunning deliberation. It would further

seem significant and observable to note that in the relevant Affidavit affirmed by him on 18.1.86, which had accompanied his relevant application, he had clearly affirmed in paragraph 10 thereof that he had been "unemployed during the period of twelve months preceding the date" of his application for subject Dealership. The information given by him in his relevant application and the accompanying Affidavit that he was unemployed, having no temporary employment and self-employment, not being a professional (employed or self-employed), as already indicated above, must obviously have been false, untrue and incorrect to his own knowledge. In view of the supression of the aforesaid relevant facts regarding his Cement Dealership and M.R. Distributorship, which, according to him, could at best be deemed to be self-employment, he could hardly be deemed to be a fit and proper person to be considered for award of the Dealership in question. And, he as well had clearly affirmed in paragraph 11 of his aforesaid Affidavit, which had accompanied his. application, that if any information given by him in his relevant application or any document submitted by him in support of his application for the award of Retail Outlet Dealership be found to be untrue or incorrect or false, the Corporation would be within its rights to withdraw the letter of intent, terminate the Dealership (if already awarded) and that he would not have any claim whatsoever against the Corporation for such withdrawal/termination. In terms of his own aforesaid Affidavit, the letter, of Intent to him and the award of Dealership in question in his favour are clearly liable to be terminated and withdrawn in view of the aforesaid undisputed facts.

10. As already noted, the Respondent No. 5, Radhakrishna, had clearly indicated in his relevant application that he was an unemployed graduate, which he, admittedly, was not, on his own belated contention that he was "self-employed." He had nowhere disclosed in his relevant application that he was a self-employed person. His application/case could not conceivably, o therefore, have been considered by the Board as a "self-employed" candidate as such. Curiously and amazingly, however, both the Board and the Corporation had sadly sought to justify his selection and appointment as a "selfemployed" person, having no income, which seems to be extremely unfortunate in view of the materials on record, such as they are, as amply and appallingly made clear above. The said Respondent No. 5 has admitted in his Supplementary Affidavit affirmed on 26.7.93 that Cement Licence was granted to him in August, 1985, and that he had lifted 200 and 600 bags of cement on 2nd January and 3rd January, 1986 respectively, on the basis of allotment letters issued by the Authority concerned. The first transaction of sale had taken place on 24.1.86 when he had sold 15 bags of cement to one Priyanath Saha and 186 bags of cement to other customers on the basis of authority letters issued by the Authoity concerned. On his own admission he was clearly not an "Unemployed Graduate" during the relevant point of time. The Board does neither appear to have considered his case as an "unemployed Graduate" in which category he himself had applied for the subject Dealership, but had considered his case as a "self-employed" person

having no income, though not so indicated by him in his relevant application, giving the clearest and conclusive indication that both the Board and the Corporation had been extremely keen in somehow awarding the subject Dealership to him. The conduct of the Board and the Corporation does not at all appear to be nonpartisan, which cannot but earn frown from the Court.

11. As regards "Residence," the Respondent No. 5, Radhakrishna, had declared himself to be a resident of Sonakhah, P.S. Basanti, District 24Parganas, claiming himself eligible for making the application and for being awarded the subject Dealership, which is also strongly disputed by the appellant Satyendra. It is contended by him that Radhakrishna Roy, son of Kartick Roy, is, in fact, a resident of Village-Ma/d/a, School Matpara, P.S. Nabadwip, District-Nadia, and is not a resident of 7, Sonakhali, within P.S. Basanti, District 24-Parganas (South). The said contention could neither be lightly discarded in view of the materials on record, as they are. It appears from the materials on record that the name of Radhakrishna Roy appears in Serial No. 1040 of the Voters'' List of Part No. 113 of No. 77 Nabadwip Assembly Constituency. Radhakrishna, however, sought to deny in his Affidavit-inOpposition that he is a resident of Village-Majdia, School Matpara, and not a resident of 7 Sonakhali, within P.S. Basanti. He sought to contend that he has landed properties from the time of his ancestors within the jurisdiction of Basanti Police Station. He was at Nabadwip as a student of Nabadwip Vidyarthi College during 1980 for the purpose of study; and at that point of time his name had appeared in the Voters'' List of that place. After completion of his studies he came back to Sonakhali and his name had appeared in the Voters'' List of Basanti Assembly Constituency (Schedule) at Part No. III, Serial No. 329. It is indeed curious to note that his name finds place in the Voters'' Lists of both the aforesaid places at Nabadwip and Basanti during the year 1988, which could not be reconciled by him, clearly suggesting that he had been seeking to take advantage by showing his residence in both the places for obvious reasons. The said conclusion would all the more be confirmed by the fact that he had been appointed as a Dealer of Cement at Majdia, Nabadwip, in 1986 by the Sub-Divisional Controller of Food and Supplies, Krishnagar under the relevant Licence dated 5.8.86, and had also been subsequently appointed as M.R. Distributor at Sonakhali, Gosaba, 24-Parganas in 1986 by the Sub-Divisional Controller, Food and Supplies, Alipore, 24-Pargctnas (South), under the relevant Licence No. I/GA/Rice/B5./85, as admitted by him, presumably on his showing that he is resident of those two places. There is nothing on record to indicate that he had taken any step whatsoever to strike out/cancel the entry of his name in the Voters'' List at Nabadwip as yet even though he is stated to have returned back to Sonakhali after completing his studies at Nabadwip in 1980. The entries of his name in the Voters'' Lists at the aforesaid two places during the year 1988 are very much within his knowledge, and he is merrily seeking to take advantage of the same, as and when he could. Such a person could scarecely be deemed to be a fit and proper person to be awarded the subject Distributorship, as applied for by him, resorting to various falsehood and

malpractice in his relevant application, as made clear above.

12. As regards income, the Respondent No. 5, Radhakrishna, had indicated in the Statement of Annual Income annexed to his relevant application that his income was Nil during the relevant period. But it would oddly appear from the Notice of Demand u/s 156 of the Income Tax Act on record that his Annual Income for the Assessment Year 1986-87 (Accounting Year being 1985-86) had been assessed at Rs. 18,550/- only But he has contended in his Supplementary Affidavits affirmed on 26.7.93 and 25.11.93 that he had deposited tax of Rs. 210/- only for the Assessment Year 1987-88 with the State Bank of India, Barrackpore Branch, on 21.5.88. But the Assessment Year was wrongly stated in the Challan to be 1986-87 through inadvertence. He had submitted his Tax Return for the Assessment Year 1987-88 on 24.6.88, but had wrongly stated the Assessment Year therein to be 1986-87. The assessment was completed by the Income Tax Officer in October, 1988, and in the Assessment Order also the year was wrongly mentioned as 1986-87. He had accordingly submitted a fresh/corrected Return on 26.3.92 for the Assessment Year 1987-88 for the aforesaid amounts of Return, which had already been submitted before the Income Tax Officer concerned in October, 1988. Subsequently, on 22.7.93 he had made a representation before the Income Tax Authority u/s 154 of the Act for rectification of the Assessment Year, in the aforesaid circumstances. The Income Tax Officer concerned by his order dated 3.7.93 (sic) has rectified the mistake apparent from the records by treating the Assessment Year to be 1987-88, instead of 1986-87. The Annexures annexed to the aforesaid two Supplementary Affidavits would seem to bear out his contention. He, therefore, does not appear to have returned income during the Assessment Year 1986-87, even though he had admittedly started his cement business in August, 1985 and there had been transactions of sale of cement during the Accounting Year 1985-86. It would be naive to believe that he did not earn any income from his said business during the said Accounting Year.

13. The Respondent No. 5, Radhakrishna, having thus suppressed relevant facts and resorted to utter falsehood and malpractice could not conceivably be considered to be a fit and proper person for being awarded the subject Dealership for which he had applied for. The Board not having considered his application/case as "unemployed graduate," as disclosed by him in his relevant application, but having considered the same as "selfemployed" graduate, though not so disclosed by him, the learned Trial Judge clearly seems to us have been perfectly justified in quashing his selection by the Board. But the learned Trial Judge does not seem to us to have at all been justified in directing the Board to consider afresh the candidature of he did. For much the same reasons already discussed above, the Respondent No. 5 Radhakrishna, in terms of the impugned judgment and order, the way he did. For much the same reasons already discussed above, the Respondent No. 5 Radhakrishna does not clearly appear to be in the least eligible for making application for the subject Dealership or being awarded the same. His candidature could not be considered by the Board afresh

on the application already filed by him disclosing himself to be an "unemployed" graduate, though on his own belated contention and admission he is a "selfemployed" person. The Board cannot either conceivably consider his candidature afresh on the footing that he is a "self-employed" person, which is not disclosed by him in his relevant application. In no case, therefore, the candidature of the Respondent No. 5 Radhakrishna could at all be reconsidered by the Board afresh, along with others, on the basis of the application already made by him. His case could neither be considered by the Board afresh at this stage by allowing him to file a fresh application disclosing himself to be a "self-employed" person.

14. With things as they are, the candidature of Radhakrishan could not clearly be considered afresh by the Board as directed by the learned Trial Judge. The materials on record being, what they are, the candidature of the remaining intending candidates, other than the writ petitioner-appellant Satyendra Nath, could neither be considered afresh by the Board, as directed by the learned Trial Judge. It would clearly appear from the Affidavit-inOpposition affirmed by Arunavo Roy Mahasay on 8.2.89 on behalf of the Board that the Board had interviewed 19 candidates in all on 9.12.87. In the said interview, the highest mark was obtained by the Respondent No. 5 Radhakrishna Roy, and the second highest mark was obtained by the writpetitioner Satyendra Nath Mondal. The Board had, accordingly, empanelled both of them as eligible candidates for the purpose of carrying out field investigations. The satisfaction of the Board was also duly forwarded to the Corporation by a Memorandum dated 11.3.88. The very fact that the Board had empanelled the aforesaid two persons only as eligible candidates for the purpose after interviewing the 19 candidates would clearly seem to sug- gest that the remaining 17 candidates had not been found by the Board to be eligible for the purpose. There could clearly, therefore, be no question of considering the candidature of the aforesaid left out 17 candidates afresh by the Board, as directed by the impugned order. That being so, the direction of the learned Trial Judge directing the Board to consider afresh candidature of all the intending parties, including the writ petitioners, Respondent No. 5 and others, could scarcely be sustained. No fruitful purpose could either possibly be served by directing the Board to reconsider afresh the candidature of all the candidates, including the Respondent No. 5, Radhakrishna, in terms of the impugned judgment and order of the learned Trial Judge as the Board appears to be very much biased and prejudiced in favour of the Respondent No. 5 Radhakrishna, having most improperly considered his case for being awarded the subject Dealership on the footing that he is a "self-employed" person having no income, which had never been indicated by him in his relevant application; he having unequivocally disclosed himself to be an "unemployed" graduate. The Board could have neither any occasion to consider his case as a "self-employed" person, which had not been indicated in Tiis relevant application, as already indicated.

15. As already indicated above, the Respondent No. 5 Radhakrishna had,

admittedly, obtained the highest mark, and the writ petitioner appellant Satyendra Nath Mondal had obtained the second highest mark at the interview by the Board on 9.12.87; and empanelled by it as the only two eligible candidates for the relevant purpose. Since the Respondent No. 5, Radhakrishna Roy, on the face of the materials on record and in view of the discussions above, does not at all appear to be eligible for being awarded the subject Dealership, the writ petitioner-appellant-Satyendra Nath Mondal, having, admittedly, obtained the second highest mark and empanelled by the Board as the other lone eligible candidate for the purpose of carrying out. field investigations, must certainly be held eligible for being awarded the subject Dealership as a matter of course on the selection made by the Board itself, the Board not having found any other better candidate than him, amongst the intending candidates, who had participated in the matter. As observed by the learned Trial Judge himself, the Board is a High Level Body consisting of a retired High Court Judge and a retired Civil Servant, which is an independent entity. The learned Judge had also observed that there could be minimal scope for alleging mala fide against such a body. The said High Level Body, upon due consideration of the applications/cases of all the intending candidates, had, admittedly, granted the second highest mark to the Writ Petitioner-Appellant-Satyendra Nath Mondal. The Respondent No. 5 Radhakrishna, who had been given the highest mark by the Board, being found utterly ineligible for being awarded the subject Dealership, the selection of the Appellant-Satyendra Nath Mondal for the subject Dealership should be deemed to be a selection by the Board itself, in the aforesaid circumstances. The Appellant-Satyendra Nath Mondal would accordingly be entitled to be awarded the subject Dealership, in the aforesaid facts and circumstances. That would, in effect, amount to giving effect to the selection made by the Selection Board in the relevant matter. In this context, we would feel tempted to refer to the observations made by the Hon''ble Supreme Court of India in the decision in Comptroller and Auditor-general of India, Gian Prakash, New Delhi and Another Vs. K.S. Jagannathan and Another, , which runs as follows :-

"There is thus no doubt that the High Courts in India exercising their jurisdiction under Article 226 have the power to issue a writ of mandamus or a writ in the nature of mandamus or to pass orders and give necessary directions where the Government or a public authority has failed to exercise or has wrongly exercised the discretion conferred upon it by a Statute or a rule or a policy decision of the Government or has exercised such discretion mala fide or on irrelevant considerations or by ignoring the relevant considerations and materials or in such a manner as to frustrate the object of conferring such discretion or the policy for implementing which such discretion has been conferred. In all such cases and in any other fit and proper case a High Court can in the exercise of its jurisdiction under Article 226, issue a writ of mandamus or a writ in the nature of mandamus or pass orders and give directions to compel the performance in a proper and lawful manner of the discretion conferred upon the Government or a public authority, and in a proper case, in order to prevent injustice resulting to the concerned parties the Court may itself pass an order or give directions which the Government or the public authority should have passed or given had it properly and lawfully exercised its discretion."

16. Having regard to the facts and circumstances of the matters before us, it also seems to us that it is a fit and proper case for passing orders and giving directions to the Corporation to compel the performance in a proper and lawful manner of the discretion conferred upon it, and in order to prevent injustice resulting to the concerned writ petitioner Satyendra Nath Mondal, give direction to it award the subject Dealership to him, in the facts and circumstances already indicated above, which it should have done had it properly and lawfully exercised its discretion in the matter. It would also be partinent to refer to an order passed by a Division. Bench of the Patna High Court in C.WJ.C. No. 7686 of 1989 with M.J.C. No. 784 of 1991, the xerox copy of the certified copy of which had been presented to us by Mr. Sarkar appearing on behalf of the Appellant-Satyendra Nath Mondal, in which in almost similar circumstances, the Court had held the second candidate in the merit list to be the fit candidate for appointment as Outlet Dealer, and had directed the Bharat Petroleum Corporation Ltd. to appoint him as Distributor at Purnea in terms thereof as the first candidate in the merit list was not found to be eligible for the Dealership in question. The said matters related to an outlet for Bharat Gas (LPG). The outlet was meant only for Scheduled Caste and Scheduled Tribe, and an advertisement to the effect was also made. The Respondent No. 6 therein, who, on his own admission, was not a Scheduled Caste, but belonged to backward class, had applied for being appointed as a Dealer, along with the petitioner, who was a member of the Scheduled Caste, and others. The Court had found that under some confusion the Respondent No. 6, who was treated to be a Scheduled Caste candidate, even though he was not, was; appointed as a Distributor at Purnea, which distributorship was purely meant for Scheduled Caste and Scheduled Tribe. The Court had held the petitioner, who had been placed at Serial No. 2 in the Merit List as the fit candidate for appointment, and had directed the said Corporation to appoint him as Distributor at Purnea in terms thereof, as the Respondent No. 6, who was placed at Serial No. 1 of the Merit List was found ineligible for the said Dealership, observing that there was no need for further selection, in the circumstances indicated therein. The Court had directed the Corporation to appoint the petitioner as Distributor as it was; only a question of giving effect to the selection made by the Selection Board in the relevant matter. We are in complete agreement with the view taken by the Patna High Court in the given case. It would further appear from the xerox copy of the Judgment and order dated 12.9.91 of the Hon''ble Supreme Court of India that on a petition for Special Leave to Appeal thereagainst having been filed by the aggrieved party. Their Lordships of the Supreme Court were not inclined to interfere with the aforesaid order passed by the Patna High Court.

17. Upon the premises above, we are also inclined to hold that the writ petitioner-Appellant-Satyendra Nath Mondal is the fit and eligible candidate for being

awarded the subject Dealership. The Hindusthan Petroleum Corporation Ltd. is, accordingly, directed to offer him the Retail Outlet Dealership in question at Malancha, District-24-Parganas, subject to his complying with the requisite formalities and conditions therefor, if any, as may be required.

18. All the four Appeals and the relevant two Writ Petitions be accordingly disposed of.

19. This Judgment governs all the four relevant Appeals, being F.M.A.T. Nos. 2824, 2854, 2879 and 3481 of 1992.

20. In the facts and circumstances of the matter, we direct the parties to bear their respective costs of this hearing.

S.C. Sen, J.

21. I agree.

