
(2017) 03 SHI CK 0074
In the High Court Of Himachal Pradesh
Case No : 505 of 2012

Srijan Sharma

APPELLANT

Vs

Union of India and Ors

RESPONDENT

Date of Decision : 17-03-2017

Acts Referred:

[Constitution of India](#), [Article 14](#) -
Appointment of Commission to inquire into and report on the administration of
autonomous districts and autonomous regions

Citation : (2017) 03 SHI CK 0074

Hon'ble Judges : Ajay Mohan Goel

Bench : Single Bench

Advocate : B.C. Negi, Narender Thakur, Sukarma Sharma, K.D.Sood, Sanjeev Sood

Final Decision : Disposed

Judgement

1. Brief facts necessary for adjudication of the present petition are that applications were invited by the respondent-Corporation for awarding distribution-dealership outlet of Rajiv Gandhi Grameen LPG Vitrak Yojna, at Sihunta Jarei, District Chamba, HP under open category vide advertisement dated 11th October, 2010. According to the petitioner as he was eligible to be awarded such dealership, accordingly, he applied to the respondent-Corporation with all requisite documents. Thereafter, vide communication dated 1st August, 2011, he was intimated by the respondent- Corporation that he had qualified for the draw of selection of Rajiv Gandhi Grameen LPG Vitrak Yojna and he was called upon to be present alongwith his photo identity etc. for the draw of lots on 26.08.2011 at 10:00 a.m. It is pertinent to mention at this stage that a perusal of communication dated 1st August, 2011 demonstrates that it was mentioned therein that the result of draw and further proceedings shall be subject to the outcome of the CWP No. 1192 of 2011 pending before this Court . The said petition stands disposed of as withdrawn by this Court vide its decision dated 23.11.2016. According to the petitioner, he was successful in the draw of lots and

was waiting for letter of intent, however, rather than issuing any letter of intent, respondent-Corporation sent communication dated 11.10.2011 to him vide which he was interalia informed that there was a mistake of description of khasra number for the purpose of dealership and that land comprised in Khasra No. 1239/359 was duly inspected by the Officers of the respondent-corporation alongwith Patwari concerned and certain shortcomings were noticed in the said land and the petitioner was called upon to remove the same within a period of seven days. This as per the petitioner was followed by communication dated 09.01.2012 vide which the candidature of the petitioner was cancelled for the purpose of allotment of dealership outlet of Rajiv Gandhi Grameen LPG Vitrak Yojna at Sihunta Jarei without providing him any opportunity of being heard to him. In this background, the present writ petition was filed praying for the following reliefs.

"(A) Entire record pertaining to the case may kindly be summoned.

(B) That the letter dated 9.1.2012 (annexure P-4) may kindly be quashed and respondents may kindly be directed to issue letter of intent for setting up RGGLV Distributorship at village Sihunta in favour of the petitioner.

(C) Cost of this petition may kindly be awarded in favour of the petitioner.

(D) Any other writ, order or direction, which this Hon'ble Court may deem fit, just and proper in the facts and circumstances of the present case, may kindly also be passed, in the interest of justice."

2. I have heard the learned counsel for the parties.

3. It is a matter of record that before issuance of the impugned communication dated 09.01.2012 vide which candidature of the petitioner was cancelled for the purpose of allotment of distribution outlet of Rajiv Gandhi Grameen LPG Vitrak Yojna at Sihuntra Jarei, no opportunity of being heard was provided to him. In other words, his candidature has been cancelled by the respondent-Corporation in violation of principles of natural justice.

4. In the present case, after the petitioner was informed that he was successful in the draw of lots, he had a legitimate expectation that the dealership shall be allotted to him. In these circumstances, act of respondent-Corporation of cancelling his candidature without any notice and without affording the petitioner an opportunity of being heard is arbitrary and violative of Article 14 of Constitution of India as said order could not be passed without at least affording an opportunity of being heard to the petitioner, as the same had civil consequences as far as petitioner is concerned.

5. Therefore without adjudicating on the rest of the issues raised in the writ petition, as it is evident that the impugned order is passed by the respondent-Corporation in violation of principles of natural justice, impugned communication dated 09.01.2012, Annexure P-4 issued by Dy. General Manager, of the respondent-Corporation informing the petitioner about the cancellation of his

candidature for allotment of dealership outlet of Rajiv Gandhi Grameen LPG Vitrak Yojna at Sihuntra Jarei is quashed and set aside. Respondent-Corporation is directed to afford an opportunity of being heard to the petitioner and thereafter take a decision on the candidature of the petitioner for allotment of dealership outlet of Rajiv Gandhi Grameen LPG Vitrak Yojna at Sihuntra Jarei. For this purpose, petitioner shall make himself present before the respondent No. 3/ authority concerned on 18th of April, 2017 at 11:00 a.m. It is clarified that this Court has not expressed any opinion on the merits of the case or on objections on the basis of which the candidature of the petitioner was cancelled by the respondent-corporation. All these issues are left open for the appropriate authority to decide as per the material available before the said authority.

6. Writ petition is disposed of accordingly, so also pending miscellaneous application(s), if any. No orders as to costs.