
(2012) 01 AHC CK 0292
In the Allahabad High Court
Case No : Writ - C No. 2106 of 2012

Suman Kumari

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 20-01-2012

Acts Referred:

Citation : (2012) 01 AHC CK 0292

Hon'ble Judges : Sunita Agarwal, J;Ashok Bhushan, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Hon"ble Mrs. Sunita Agarwal, J.—Heard Sri Ram Autar Verma, learned counsel for the petitioner and Sri Prakash Padia, learned counsel for the respondents No. 2 to 6.

2. The petitioner, by means of present writ petition, has challenged the cancellation of his selection for appointment of dealership for "Kisan Sewa Kendra" at Village Nazampur Garuma, District Firozabad under open category.

3. The case of the petitioner is that in pursuance to the advertisement dated 12.12.2007 he moved an application on 12.1.2008 in the office of respondent No.6 which was received on 15.1.2008. After scrutiny of the application form, a call letter was issued to her on 6.8.2009 calling upon her to appear for interview held on 26.8.2009. The petitioner appeared for interview and after evaluation of interse merits all the three candidates who appeared for the interview, the selection was finalized on 26.8.2009. The petitioner was empaneled as the first candidate whereas the other two were found disqualified. The copy of the evaluation/result of selection done by the respondent authority dated 26.8.2009 is on record as Annexure 4 to the writ petition.

4. Further, case of the petitioner is that after empanelment was done, respondent No. 6 instructed to conduct field investigation in respect of the petitioner's selection. He submits that the field investigation report was

submitted to respondent no.6 who in turn reported the same to respondent no.3 for its approval for petitioner's selection.

5. The petitioner further submits that in the meantime, in the month of February, 2010 one candidate namely Sri Asim Kumar made a complaint against the petitioner's selection. She further submits that when no information was given to her and no Letter of Intent was issued, she moved an application under RTI Act for the purpose. Despite that she received no information regarding her status of allotment of dealership. Again on 28.2.2011 she moved an application under RTI Act. In reply thereto, a letter dated 28.3.2011 was received by her. Alongwith the said letter, a copy of letter dated 22.6.2010 was supplied to her wherein it was mentioned that the competent authority had cancelled the panel and ordered for revaluation.

6. The petitioner submits that by the letter dated 28.3.2011 incomplete information was provided to her. She further approached the higher authorities for the supply of complaint of Sri Asim Kumar but to no avail.

7. Aggrieved, she filed a writ petition bearing No.18563 of 2011 on 29.3.2011 with following reliefs:

a) issue a writ, order or direction in the nature of mandamus commanding the respondents to appoint the petitioner as dealer for running the Kisan Sewa Kendra of the Indian Oil Corporation Ltd. at the village Nizampur Garuma, Block & Tehsil Shikohabad, District Firozabad by issuing a letter of intent.

b) issue any other writ, order or direction which this Hon"ble Court may deem to be fit and proper in the facts and circumstances of the case.

c) award costs of the petition in favour of the petitioner."

8. The said writ petition was entertained on 21.4.2011. However, no interim order was passed in the matter. The writ petition no. 18563 of 2011 was finally disposed of vide judgment and order dated 5.5.2011 and the respondents were directed to consider and decide the matter.

9. The order dated 28.9.2011 was passed thereafter and the petitioner was intimated vide letter dated 12.10.2011 that the merit panel declared on 26.8.2009 has been cancelled as no candidate got minimum qualifying marks.

10. The petitioner submits that she filed a certificate of the Bank of Baroda dated 14.1.2008 with confirmation that a loan of Rs.10,00,000/-can be sanctioned as per the bank's norms to the petitioner. Photostat as well as typed copy of the certificate dated 14.1.2008 having endorsement of Branch Manager of Bank of Baroda dated 14.1.2011 is on record as Annexure 6 to the writ petition.

10. She further submits that the entire proceedings for cancellation has been initiated on the complaint of one Sri Asim Kumar and the complaint filed by him was beyond time as against the period of 30 days as provided in the Clause 18 of the Brochure, and as such the complaint could not have been entertained and no

reevaluation could have been done on the basis of said complaint. The marks awarded to the petitioner under the head "Ensuring Loan/Credit Worthiness Certificate" could not have been reconsidered. The committee has wrongly awarded zero marks in the said parameter as a result of which the petitioner got less than 60 marks.

11. Sri Prakash Padia, learned counsel for the respondents no. 2 to 6 submits that the order dated 28.9.2011 and the earlier order dated 22.6.2010 cancelling the empanelment of the petitioner was on the basis of field investigation. During the said verification it was found that wrong marks had been awarded to the petitioner under "Capability to Arrange Finance". He further submits that the Brochure for selection of petrol/diesel retail outlet under "Kisan Sewa Kendra" dealers gives various parameters for evaluation/award of marks. Under the parameters "Capability to Provide Finance" and sub heading "Credit Worthiness Certificate", maximum marks which could have been awarded to the petitioner was 5 marks.

12. The Brochure has been annexed by the petitioner alongwith the writ petition and the parameters mentioned therein substantiates his contention that maximum 5 marks could have been awarded to the petitioner under parameter sub heading "Credit Worthiness".

13. He further submits that after the judgment and order dated 5.5.2011 passed by this Court, the reevaluation of marks awarded to all the candidates was carried out. He further submits that the order clearly shows that during field investigation it was noticed that the letter furnished by the petitioner through her banker did not mention the words "As per requirement" and therefore verification from the bank was made. A letter dated 5.11.2009 was received from the bank wherein it was stated that the petitioner had no credit facility with the bank nor had she requested for credit facility.

14. It was further stated that no amount was committed by the bank and hence there is no question of mentioning the loan amount. The reevaluation committee on the basis of the bank's letter, awarded zero marks to the petitioner under Head of parameters "Capability to Provide Finance" and sub head "Credit Worthiness Certificate". The petitioner after reevaluation got 56.63 marks out of 100. Two other candidates also got less than 60 marks and hence the merit panel declared on 26.9.2009 was cancelled.

15. We have heard learned counsel for the parties and perused the record.

16. A perusal of orders dated 28.9.2011 and 22.6.2010 shows that the committee i.e. competent authority has cancelled the panel on the basis of field verification. The order dated 28.9.2011 shows that the reevaluation committee had considered letter of the petitioner's banker during the field investigation wherein a categorical statement has been made that the petitioner had no credit facility with the bank and no assurance was given by the bank for providing any loan to the petitioner as alleged by her. In view of the said fact, the reevaluation

was done and the petitioner was awarded zero marks under Sub head of parameters "Credit Worthiness Certificate". The merit panel declared on 26.9.2009 was rightly cancelled.

17. The submission of the petitioner that the proceedings for revaluation carried out on the basis of complaint made by one Sri Asim Kumar which was a belated complaint and could not have been entertained by the respondents authorities, is of no basis. The petitioner in paragraph 11 of the writ petition herself stated that the field investigation was conducted after her empanelment on the basis of interview dated 26.8.2009.

18. It is not disputed that after preparation of the panel on the basis of the interview, the field investigation is done for the purpose of verification of documents annexed by the selected candidates alongwith the application form and in case, any discrepancy is found the same is to be considered and revaluation is done on the said basis. The same happened in the present case.

19. In view of above discussion, we are of the opinion that the petitioner has failed to make out any good ground to interfere in the orders dated 28.9.2011 and 22.6.2010 passed by the respondents authorities.

20. The writ petition is dismissed.