

(2011) 11 SHI CK 0264
In the High Court Of Himachal Pradesh
Case No : LPA No. 312 of 2011

Sushil Kumar

APPELLANT

Vs

Indian Oil Corporation and others

RESPONDENT

Date of Decision : 16-11-2011

Acts Referred:

Citation : (2011) 11 SHI CK 0264

Hon'ble Judges : Rajiv Sharma, J;Kurian Joseph, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Justice Rajiv Sharma, Judge

1. The present Letters Patent Appeal is directed against the judgment dated 26.7.2011 passed by the learned Single Judge in CWP No. 5719 of 2010.

2. Material facts necessary for the adjudication of this appeal are that respondent No. 1 issued an advertisement on 25.2.2009 whereby applications were invited for setting up of Kisan Seva Kendra at "Hathol". Respondent No. 3 also submitted an application under the open category (woman). She was found suitable and a letter of intent was issued in her favour on 1.9.2010. Appellant assailed the selection of respondent No. 3 by filing CWP No. 5719/2010, inter alia, on the ground that Kisan Seva Kendra was to be established at village "Hathol Khas" and not within Mauza "Hathol". According to the appellant, village "Hathol Khas" falls within Patwar Circle, Gwalpathar whereas Mauza "Hathol" was part of Tehsil Nadaun and covered lot of Patwar Circles, including Dhaneta, Gwalpathar, Beha, Mandyani, Jasoo. Primarily, the dispute was whether the Kisan Seva Kendra was to be set up in village "Hathol Khas" or in Mauza "Hathol". Learned Single Judge came to the conclusion that there was no village in the name of "Hathol" and the village is "Hathol Khas". According to the learned Single Judge, respondents were not bound to set up Kisan Seva Kendra only at "Hathol Khas" itself. Consequently, the writ petition was dismissed. Hence, the present Letters Patent

Appeal.

3. Mr. Anup Rattan has vehemently argued that Kisan Seva Kendra was to be set up in village "Hathol Khas" and not within Mauza "Hathol".

4. Mr. K.D. Sood and Mr. K.S. Banyal have vehemently argued that Kisan Seva Kendra was to be set up in Mauza "Hathol" and not in village "Hathol Khas".

5. Mr. Ankush Sood, learned Additional Advocate General has put in appearance on behalf of respondent No. 4.

6. We have heard the learned counsel for the parties and perused the records carefully.

7. The records were directed to be produced by respondent No. 1. Mr. K.D. Sood has produced the records, including the record of feasibility of setting up Kisan Seva Kendra at "Hathol". It is evident from the records that location mentioned is "Hathol". A map has also been annexed with the feasibility report. According to the note on the map, "Hathol" location is on the M.D.R. Road. The distance between Dhaneta and nearest retail outlet is 22 KMs. It is clear from the map that the feasibility report has been prepared for the location "Hathol" on the M.D.R. Road and not at a link road.

8. Mr. K.D. Sood has also placed on record copy of another map whereby village "Hathol Khas" is shown at a distance of about 7 KMs from M.D.R. Road. It is at a link road as per map. In order to ascertain whether there was village "Hathol" or village "Hathol Khas", we directed Mr. Ankush Sood, learned Addl. Advocate General to seek instructions from the Deputy Commissioner, Hamirpur over telephone. Learned Addl. Advocate General has placed on record the copy communication dated 4.8.2011 received from the Deputy Commissioner, Hamirpur. According to the report furnished by the Deputy Commissioner, Hamirpur, there is no village (Mahal) as "Hathol". Respondent No. 3 has applied for retail outlet on a piece of land comprising Khasra No. 34 and 35 in Mahal Ghalol, Mauza Hathol, Tehsil Nadaun. According to the report there is village "Hathol Khas" in Mauza "Hathol", Patwar Circle, Gwalpathar, Gram Panchayat, "Hathol". Village Ghalol is also situated in Mauza Hathol, Patwar Circle, Dhaneta and Gram Panchayat, Dhaneta. It is established from the material placed on record by the respective parties that there is a Mauza "Hathol" and there are number of villages in Mauza "Hathol", including "Hathol Khas" and "Ghalol". Respondent No. 1-corporation has undertaken the survey work and as per records, Kisan Seva Kendra was to be set up at M.D.R. Road called "Nadaun-Barsar". Village "Hathol Khas" is at a distance of 7 KMs from M.D.R. Road. It is situated at a link road. The survey has been conducted for Mauza "Hathol" and not for village "Hathol Khas". There is no separate village "Hathol" as per the report of the Deputy Commissioner, Hamirpur. "Hathol", it is reiterated, is a Mauza and "Hathol Khas" is a village (Mahal). We are of the considered view that as per the advertisement based on survey/feasibility report, Kisan Seva Kendra was to be set up in Mauza "Hathol" and not in village "Hathol Khas".

9. Accordingly, in view of the observations and discussions made hereinabove, there is no illegality in the judgment passed by the learned Single Judge. Consequently, the Letters Patent Appeal is dismissed with no order as to costs. Pending application(s), if any, also stands disposed of.