

(2015) 05 TP CK 0030
In the Tripura High Court
Case No : Writ Petition (C) No. 181 of 2014

Tirthankar Bhattacharjee

APPELLANT

Vs

Indian Oil Corporation Ltd. and Others

RESPONDENT

Date of Decision : 29-05-2015

Acts Referred:

Citation : (2015) 05 TP CK 0030

Hon'ble Judges : S.C. Das, J

Bench : Single Bench

Advocate : S. Lodh, for the Appellant; B.N. Majumder, T.D. Majumder and A. Lodh, Advocates for the Respondent

Final Decision : Dismissed

Judgement

S.C. Das, J.

1. By filing this writ petition the petitioner, inter alia, prayed for issuing a writ of mandamus directing the respondents-Indian Oil Corporation Ltd. (for short "IOC") to cancel the allocation of Rajiv Gandhi Gramin LPG Vitrak (for short "RGGLV") at Kadamtala, North Tripura District settled in the name of respondent No. 7, Sri Sanjib Roy, and also prayed for directing the respondents to issue letter of intent of RGGLV at Kadamtala in his name.

2. Heard learned counsel, Mr. S. Lodh for the petitioner. Also heard learned counsel, Mr. B.N. Majumder for the respondent Nos. 1 to 3, learned counsel, Mr. T.D. Majumder for the respondent No. 4 and learned counsel, Mr. A. Lodh for the respondent No. 7. Respondent Nos. 5 and 6 neither filed any counter nor participated in the hearing.

3. Respondent No. 1, IOC, made an advertisement published in the daily newspaper, namely, "Daily Desher Katha" dated 03.12.2011 (Annexure-P/1 to the writ petition) and thereby invited application from eligible candidates for distribution of RGGLV at different nine locations including one at Kadamtala under North Tripura District. The tabular format at Paragraph 1 of the

advertisement for nine locations is as follows:-

4. In Paragraph No. 3 of the advertisement, General qualifications for all categories of candidates/applicants were mentioned and one of such qualifications/conditions was that the candidates shall be a resident of the town/village of the location of RGGLV. Another condition was mentioned in Paragraph 3(g) that the candidates shall have a plot of land measuring 20m x 24m for a Godown to store LPG cylinders.

5. 7(seven) candidates including the petitioner and respondent No. 7 applied for RGGLV at Kadamtala. Out of them two candidates were declared informal. 5(five) candidates including the petitioner and respondent No. 7 were invited by the IOC to remain present in the process of selection scheduled to be held on 08.01.2013 at 11-00 am in the Conference Hall of the Office of the Director, Food, Civil Supplies and Consumer Affairs, Government of Tripura and accordingly, the petitioner, respondent No. 7 and others attended the Office and participated in the selection process where lottery was conducted and in the lottery respondent No. 7 came out successful.

6. The petitioner contended that before drawing up of lottery he and other candidates raised objection in respect of candidature of respondent No. 7 on the ground that respondent No. 7 was neither a resident of village Kadamtala nor the land proposed for the Godown situated at village-Kadamtala and, therefore, the application of respondent No. 7 should not be considered at the time of drawing lottery, but the officials of IOC contended that they will verify the authenticity of the documents later on and lottery was drawn. The respondent-IOC thereafter did not do anything in respect of selection of respondent No. 7 and, therefore, on 17.01.2013 the petitioner and two other candidates submitted a written complaint to respondent No. 3 alleging that the respondent No. 7 was a permanent resident of Rajbari of Dharmanagar and that he was not a resident of Kadamtala or Saraspur panchayat and, therefore, his selection should be cancelled. The petitioner also contended that he collected a copy of land document submitted by respondent No. 7 to IOC along with his application through RTI, but copy of the application made by the respondent No. 7 though prayed for was not supplied. It is contended by the petitioner that the respondent-IOC by writing letter dated 06.03.2014 (Annexure-P/7 to the writ petition) informed the petitioner that the complaint against allocation of RGGLV to Sri Sanjib Roy was enquired by the field verification and Credential (FVC) Committee and the Committee based on the certificate issued by the Tehsildar and the verification of the registered sale deed submitted by respondent No. 7 found that respondent No. 7 was a resident of Kadamtala at the time when the application was made and, therefore, turned down the objection. The petitioner further contended that the land document submitted by respondent No. 7 itself shows that it was a land purchased by him in the year 2011 at Mouja-Saraspur and that the voter list and other documents of the petitioner show that he was a permanent resident of village Rajbari of Dharmanagar and he was not a resident

of Kadamtala. The petitioner also contended by filing Annexure-P/8 to the writ petition that there were twenty villages under Kadamtala Block and village Kadamtala and Saraspur are different villages under Kadamtala Block. It is, therefore, contended by the petitioner that respondent No. 7 was not an eligible candidate for RGGLV and that only in the year 2014 he transferred his permanent resident from Dharmanagar to Kadamtala and, therefore, he was not a resident of Kadamtala at the time of making the application for RGGLV.

7. Respondent Nos. 1, 2 and 3 by filing a joint counter affidavit, inter alia, contended that respondent No. 7 along with his application submitted a residential certificate issued by the Sub-Divisional Magistrate, Dharmanagar (for short "SDM, Dharmanagar") and the respondent No. 7 also submitted land document of Kadamtala Tehsil, Mouja-Saraspur and taking into account those documentary evidence produced by the respondent No. 7, his application was taken up for the purpose of drawing lottery along with other eligible candidates. It is also contended by the respondents that after the petitioner and two others filed written complaint dated 17.01.2013, the IOC forwarded it to the SDM, Dharmanagar for verification of the residential certificate and accordingly, SDM, Dharmanagar after verification submitted report with all materials that respondent No. 7 was a resident of Kadamtala at the relevant point of time.

8. Respondent No. 4, SDM, Dharmanagar by filing counter affidavit contended that after receipt of communication dated 09.10.2013 (Annexure-R/1 to the counter affidavit) from the Area Manager of IOC regarding the complaint against respondent No. 7, he asked R.I., Dharmanagar to enquire and submit report whether respondent No. 7, Sanjib Roy is a resident of Kadamtala or not and accordingly, R.I., Dharmanagar made field enquiry and submitted report with evidence that respondent No. 7 had been residing at Kadamtala under North Tripura District. A copy of the report is annexed as Annexure-R/3 to the counter affidavit. It is also contended by the respondent that Sanjib Roy, respondent No. 7, transferred his permanent resident from Rajbari, Dharmanagar to Kadamtala Ward No. 5 and a copy of the Family Register Certificate is enclosed as Annexure-R/4 to the counter affidavit.

9. Respondent No. 7 by filing counter affidavit contended that he had been residing at Kadamtala and he purchased land at Kadamtala, Mouja-Saraspur and, therefore, his candidature was rightly considered by the IOC.

10. Learned counsel, Mr. Lodh appearing for the petitioner submitted that the location of RGGLV as per advertisement was at Kadamtala and an applicant must be a resident of the "town" or "village" where the RGGLV is located. For construction of Godown for storing cylinders, the land also shall be located at the RGGLV location. Since respondent No. 7 was neither a resident of village-Kadamtala nor the proposed land situated at village Kadamtala, the respondent-IOC would declare his candidature as informal and though he was successful in the lottery, the letter of intent should not be issued in his favour.

11. Learned counsel, Mr. Nandi Majumder appearing for the respondent Nos. 1, 2 and 3 has submitted that along with the application respondent No. 7 enclosed a residential certificate issued by SDM, Dharmanagar and also enclosed a copy of the purchased deed of the land where he proposed to construct the LPG Godown and those documents were prima facie found genuine and so the application filed by respondent No. 7 was processed and he came out successful in the lottery in the presence of the petitioner and other candidates. Subsequent thereto the objection has been filed by the petitioner and two others. IOC duly considered the objection and made enquiry through SDM, Dharmanagar and the SDM, Dharmanagar has reported that respondent No. 7, Sanjib Roy was a resident of Kadamtala and hence, IOC found no reason at all not to issue letter of intent in favour of respondent No. 7.

12. Learned counsel, Mr. Nandi Majumder appearing for the respondents-IOC, as per order of this Court, produced the application along with all documents filed by the respondent No. 7 and I have perused the same meticulously. At page-20 of the records of application I find a residential certificate issued by SDM, Dharmanagar in favour of the applicant, respondent No. 7 and at page-73 I find the copy of the purchased deed of land in his name. In the application form the respondent No. 7, while writing his address, wrote village-Saraspur as well as Kadamtala and he sworn affidavit also stating that at present he is residing at Kadamtala and doing business there.

13. The issue raised by the petitioner that on the date of drawing lottery itself, i.e. on 08.01.2013, the petitioner and other candidates raised objection about the candidature of respondent No. 7 is a disputed fact since respondent Nos. 1, 2 and 3 and respondent No. 7 specifically disputed it and such disputed fact cannot be decided in the writ petition.

14. The respondent-IOC processed the application of all candidates based on the documents filed by respective candidates. Respondent No. 7 along with his application submitted a residential certificate issued by the SDM, Dharmanagar and also submitted a copy of his purchased deed and the residential certificate was prima facie considered by the IOC and lottery was drawn while respondent No. 7 came out successful. It is an admitted position that on 17.01.2013 the petitioner and two others submitted a written complaint to the IOC challenging the candidature of respondent No. 7 and it is on record that IOC took cognizance on that complaint and sent the complaint to SDM, Dharmanagar for having an enquiry about the residential certificate of respondent No. 7 and SDM, Dharmanagar submitted a report to respondent No. 3 dated 22.08.2013 specifically stating therein that respondent No. 7, Sanjib Roy was a resident of Kadamtala. A copy of that report is annexed as a part of Annexure-P/7, i.e. impugned letter dated 06.03.2014 of respondent No. 2. Respondent No. 4 while filing counter affidavit also enclosed copy of the report submitted by R.I. on the basis of which he reported the IOC that respondent No. 7 is a resident of Kadamtala. It is an admitted position that respondent No. 7 in the year 2014

shifted his permanent resident from Rajbari to Kadamtala and a copy of the Family Register Certificate is enclosed by respondent No. 4 as Annexure-R/4 and such a copy has also been annexed by the petitioner with rejoinder affidavit, marked as Annexure-P/11.

15. Let us now critically examined as to whether the RGGLV located for Kadamtala should be at village Kadamtala itself or anywhere in the locality at Kadamtala. It is an admitted position that Kadamtala is a Block and under that Block there is one village named "Kadamtala" and another village named "Saraspur". Column 1 of the advertisement indicates the places where RGGLV are located. As already reproduced hereinbefore, Column 3 meant for RGGLV location, Column 4 mentioned the Block, Column 5 mentioned the District and Column 6 the category of candidates. Column 3 nowhere indicated that it must be at village Kadamtala. It is only mentioned Kadamtala where the RGGLV has to be located. Paragraph 3(b) of the advertisement indicates that a candidate shall be a resident of the town/village where RGGLV is located. So, Paragraph 1 and Paragraph 3 should be read together and there should not be an isolated reading. A combined reading of Paragraph 1 and Paragraph 3 makes me to understand that the candidate must be a resident of the village or town where the RGGLV is located, i.e., of Kadamtala. It will be a very narrow interpretation if it is confined to only village Kadamtala. I think here a wider interpretation should be given to the context and so, I find nothing wrong in the process adopted by the IOC while selecting respondent No. 7 through lottery.

16. The IOC processed the application of respondent No. 7 based on the residential certificate issued by SDM, Dharmanagar, who is a competent authority. That residential certificate simply mentioned that respondent No. 7 is a resident of Kadamtala. After the petitioner and others filed objection dated 17.01.2013, the SDM, Dharmanagar verified the issue through R.I., Dharmanagar and R.I., Dharmanagar submitted a clear report after enquiry that respondent No. 7 is residing at Kadamtala. The SDM, Dharmanagar based on the report of R.I., Dharmanagar informed the IOC authority by his letter dated 22.08.2013 (a part of Annexure-P/7) intimated that respondent No. 7 is a resident of Kadamtala. No doubt it is brought on record by the petitioner that respondent No. 7 was a permanent resident of Rajbari, Dharmanagar and he was a voter of Dharmanagar Constituency. Annexure-P/11 filed by the petitioner as well as Annexure-R/4 filed by respondent No. 4 makes it abundantly clear that respondent No. 7 transferred his permanent resident from Dharmanagar to Kadamtala, but it was after the selection process of IOC.

17. There is nothing in the advertisement that a candidate shall be a permanent resident of the locality where RGGLV is located. He may be a temporary resident of that locality and SDM, Dharmanagar in his certificate, which the petitioner submitted along with his application mentioned clearly that respondent No. 7 had been residing at village Kadamtala for last five years. SDM, Dharmanagar is the competent authority to certify as to the resident of a person under the Sub-

Division. In due process he made an enquiry and submitted report to the IOC after the objection filed by the petitioner and others that respondent No. 7 had been residing at Kadamtala. The petitioner is disputing the fact what is asserted by respondent No. 4. So, such disputed fact cannot be decided in the writ petition. The petitioner would approach the civil Court to challenge the action of SDM, Dharmanagar or the IOC.

18. In the given facts and circumstances of the case, I am of the considered opinion that the advertisement for RGGLV has been made for Kadamtala and not for particular village Kadamtala. The certificate, which has been placed on record, shows that the petitioner had been residing at Kadamtala and the land document also is of Mouja-Saraspur under Tehsil Kadamtala and so it cannot be said that respondent No. 7 has been selected violating the terms of advertisement.

19. In view of the discussions made above, the writ petition is found to be devoid of any merit and hence, it stands dismissed. Interim order shall stand vacated.

20. Parties to bear their own costs.

21. Return the records of IOC submitted by learned counsel, Mr. Nandi Majumder.