(2018) 05 RAJ CK 0054

In the Rajasthan High Court

Case No : Civil Writ Petition No. 992 of 2013

Umaid Inda @APPELLANT@Hash Union Of India & Ors

Date of Decision : 02-05-2018

Acts Referred:

Citation : (2018) 05 RAJ CK 0054

Hon'ble Judges : SANDEEP MEHTA, J

Bench : Single Bench

Advocate : Mahesh Bora, Ravindra Singh, O.P. Mehta, Manoj Bhandari, T.C. Sharma

Final Decision : Dismissed

Judgement

Heard learned counsel for the parties and perused the material available on record.

By way of this writ petition under Article 226 of the Constitution of India, the petitioner herein has approached this court for assailing the result sheet

dated 15.10.2012 to the extent of reduction of marks awarded to the petitioner in the head of fixed and movable assets and the order dated 13.12.2012

issued by the respondent Indian Oil Corporation Limited and to direct the respondents to consider the petitionerâ??s candidature for grant of retail

outlet dealership in furtherance of the advertisement dated 25.06.2012 at the location Near Shaikhala on NH-14 (Between KM Stone 93 to 103),

District Jodhpur. The petitioner Smt. Umaid Inda, her sister-in-law Pratibha and the respondent No.5 applied for award of the said dealership.Â The

bone of contention between the parties in the instant writ petition is regarding the award of marks under the head of fixed and movable assets.

The evaluation criterion of assets provided in the brochure for selection of the petrol/diesel retail outlet dealers is as below:-

â??Based on verifying the documents submitted. Valuation report duly certified by Govt. Approved Valuers in support of assets is necessary.â??

Manifestly, as per the above criterion, the applicant would be required to submit title documents as well as valuation report of the assets issued by a

duly certified Government approved valuer.Â The petitioner claims to have submitted a valuation certificate issued by one Mr. Anil Kumar Mathur,

claiming him to be an approved Valuer, whereas the private respondent herein, submitted the valuation certificate of Valuer Mr. Sandeep Solanki.Â

After initial round of evaluation, the petitioner was awarded 0 marks under the head of fixed assets and there was also some shortfall in the head of

educational qualification.Â The first result sheet was issued on 15.10.2012.Â The petitioner raised an objection regarding the marks awarded to her

on the educational qualification criterion and so also on the aspect of valuation of assets.Â In furtherance of the said objection, the respondents

constituted L-1 revalidation committee of three members, which re-examined the matter and issued the communication Annex.6 dated 13.12.2012, in

which the petitionerâ??s grievance on the aspect of educational qualifications was found substantiated and her marks were increased as per

norms.Â However, 1.49 marks awarded to the petitioner under the head of fixed and movable assets were found wrongly awarded because the

valuation report submitted by the petitioner was found not to have been issued by a Government approved valuer. The revised result was issued after

re-evaluation by the L-1 committee.Â It may be stated here that neither the report of reevaluation nor the revised result issued/published on

17.01.2013 (Annex.R2/1) have been challenged by the petitioner till date, even though the same were communicated well before filing of the present

writ petition and despite the fact that the copies thereof were placed on record by the respondents with their reply in the month of May 2013.

Be that as it may, As per the re-evaluation result sheet Annex.R2/1, the petitioner was awarded 0 marks under the head fixed and movable assets.

2.49 marks as awarded earlier to the respondent No.5 under the head of fixed and movable assets were reduced to 0.52 marks and final total marks

awarded to the petitioner came down to 80.89 and the respondent No.5 was evaluated at 81.52.Â As the respondent No.5 Mrs. Preeti stood higher in

merit, the letter of intent was issued to her in the month of March 2013.Â A very relevant fact, which requires reference at this stage is that no interim order was passed in favour of the petitioner in the first stay application. Thereafter second stay application preferred on her behalf was

dismissed by this court on 19.07.2013.Â The petitioner challenged said order dated 19.07.2013 by filing a Special Appeal (Writ) No.587/2013, which

was dismissed on 05.08.2013.Â The third candidate in the selection process was none other than Smt. Pratibha, sister-in-law of the petitioner. After

rejection of the above special appeal, Smt.Pratibha filed a writ petition bearing S.B. Civil Writ Petition No.11017/2013, wherein an interim order was

passed by this court and the entire allotment process was stayed.Â The said writ petition has been rejected by this court today by a separate order.

The principal argument of Mr. Mahesh Bora, learned Senior Advocate, assisted by Mr. Ravindra Singh to assail the impugned order, is that the

respondent Corporation was totally unjustified in awarding 0 marks to the petitioner under the head of fixed and movable assets.Â He urges that the

allotment guidelines do not require that the valuer should be having any

registration/approval of the government.Â He further urges that during pendency of the writ petition, the petitioner has been able to lay her hands on

a Directory of Government Approved Valuers in India and the name of Mr. Anil Kumar Mathur, the expert who provided the valuation certificate for

the petitionerâ??s assets, is mentioned therein.Â He fervently urges that the valuation report submitted by the petitioner in support of her application

was illegally discarded and rather should have been given due weightage and full marks should have been awarded to the petitioner under the head of

fixed and movable assets.Â On these grounds, he implored the court to quash the impugned action and direct the respondents to award due marks to

the petitioner under the head of fixed and movable assets and as a result thereof, award the disputed dealership to the petitioner.

Per contra, learned counsel Mr. O.P. Mehta, representing the respondent IOCL and Mr. Manoj Bhandari, learned counsel representing the

respondent No.5 Smt. Preeti (the selected candidate), vehemently opposed the submissions advanced by the petitionerâ??s counsel.Â They urged

that the final result sheet issued after investigation by the L-1 committee (Annex.R2/1) dated 17.01.2013 has not been challenged by the petitioner till

date.Â They further urged that acting on the complaint of the petitioner, the committee of three officers was constituted, which inquired into the allegations and issued the investigation report dated 29.11.2012, wherein it is noted as reproduced below that Mr. Anil Kumar Mathur, Valuer, was

contacted twice requesting him to provide the certificate bearing CBDT registration number, but he expressed his inability to do so :-

â??2.Â The issue of marks awarded for the fixed and movable assets was examined.Â The candidate has supported the statement of four assets

namely land under khasra 1236/1, movable assets â?" Maruti & Indica cars & gifted three properties from her father, which has been valuated by M/s

Anil Kumar Mathur an approved valuer having basic registration no.F-10476. Referring to the dealer selection guidelines as mentioned in the advt &

the brochure, the valuation of the immovable/movable property is necessarily required to be undertaken from the Govt approved valuer, who should be

registered with the concerned statutory authority of the State/Central Govt & also with CBDT (central board of direct taxes) under section 34 AB of

the wealth tax act 1957.Â He should be having an exclusive CBDT No. which should be mentioned on his letter head (Annexure-D)

In the instant case, Sh. Anil Kr. Mathur the approved value was contacted telephonically (Mob. No.9829027105) twice on 07/11/2012 & on date

requesting him to provide the certificate bearing CBDT registration certificate.Â He has finally expressed his inability to provide the same and

expressed that he valuates only bank properties & not IOCs.Â He has further taken the contact no. of the applicant also.

â??Final Recommendation :-

There are minor changes to be done under the parameter of education & fixed asset.Â The marks under education stand revised to 15 from 12 &

marks under fixed asset stand revised to ZERO instead of 1.49.Â The overall change in the marking for this candidate would be 88.06 as against

86.55.Â With this revision there is change in the merit panel, hence the reply to the complainant should be sent in line with the

procedures/guidelines.â??

They urged that the petitioner not having challenged these recommendations or the revised result, cannot be permitted to question decision of the

respondent corporation in awarding the letter of intent and the dealership to the respondent No.5 herein as she stood higher in merit.Â They further

urged that even if it is assumed for a moment that the valuer Mr. Sandeep

Solanki, who issued the valuation certificate to the respondent Smt. Preeti

was not holding a Government approval to issue the valuation certificate for agriculture land and the 0.52 marks awarded to her towards fixed and

movable assets are ignored, then too she would stand higher in merit as compared to the petitioner and thus, the letter of intent issued to here is above

board and cannot be questioned.Â Thus, they craved rejection of the writ petitioner.

I have given my thoughtful consideration to the arguments advanced at bar and have gone through the material available on record.Â The issue which

goes to the root of the matter is that the respondents made an enquiry into the allegations made by the petitioner in her complaint by constituting a

committee of 3 officers of Grade E and above.Â The L-1 Committee gave its report dated 29.11.2012 with the above quoted findings and

recommendations.Â Pursuant to this recommendation, the final revised result was published on 17.01.2013.Â The instant writ petition came to be

presentedÂ on behalf of the petitioner Smt. Umaid Inda on 31.01.2013.Â Neither the Committeeâ??s report dated 29.11.2012 nor the final result

sheet dated 17.01.2013 (Annex.R2/1) have been assailed in this writ petition, even though the petitioner was admittedly aware of the same.Â The

respondent Corporation has long back issued the letter of intent to the respondent Smt. Preeti after taking a decision to award her the dealership.Â

The said letter of intent is also not assailed by the petitioner.Â It is thus manifest that the petitioner has not approached this court with clean hands

inasmuch as these material documents/orders were intentionally concealed while filing the writ petition. That apart, the manner in which the

proceedings were got stalled through the writ petition No.11017/2013 filed on behalf of co-applicant Smt. Pratibha (petitionerâ??s sister-in-law), also

creates a doubt about the petitionerâ??s bonafides.Â

The assets evaluation certificate issued by the valuer Mr. Anil Kumar Mathur, which the petitioner presented alongwith her application form, does not

bear CBDT registration number, whereas the certificate issued to the respondent No.5 by Mr. Sandeep Solanki bears such registration number.Â In

this background, the respondent corporation was definitely right in discarding the valuation certificate provided by the petitioner and awarding her zero

marks under the head of fixed and movable assets.Â It is not the case of the petitioner that the respondent Corporation did not objectively reconsider

her prayer for accepting the certificate.Â Upon the complaint of the petitioner, the respondent Corporation constituted a 3 members committee (L-1

Committee), which made an enquiry from Mr. Anil Kumar Mathur, who categorically expressed his inability to provide the CBDT registration

certificate/number.Â The list of Government approved valuers, which the petitioner has placed on record with the additional affidavit, was valid for a

period beginning from 01.06.1992 to February 2011 whereas the certificate presented by the petitioner was issued on 05.08.2012.Â Furthermore, this

list has also been filed at a highly belated stage.Â Whether or not, the valuer Mr. Anil Kumar Mathur continued to be on the list of Government

Approved Valuers as on the date of issuance of the certificate is debatable.Â Had the CBDT registration number been available, nothing prevented

Mr. Anil Kumar Mathur from marking the same on the valuation report of the petitioner and to provide the same during inquiry by the L-1 Committee.

Be that as it may, the petitioner was provided ample opportunity to procure the registration certificate and present the same before the investigation

committee.Â However, she failed to do so.Â Furthermore, the final result sheet Annex.R2/1 and the letter of intent issued in favour of the

respondent No.5 Smt. Preeti have, till date, not been challenged by the petitioner, thus, the same have attained finality and hence cannot be interfered

with.

In view of the above discussion, I find no merit in the instant writ petition, which is hereby dismissed as such.

Stay application is also dismissed.

No order as to costs.

