
(2020) 08 RAJ CK 0188

In the Rajasthan High Court

Case No : Civil Writ Petition No. 17956 Of 2019

Ummeda Ram Vishnoi

APPELLANT

Vs

State Of Rajasthan And Ors

RESPONDENT

Date of Decision : 17-08-2020

Acts Referred:

Citation : (2020) 08 RAJ CK 0188

Hon'ble Judges : Vijay Bishnoi, J

Bench : Single Bench

Advocate : Manoj Bhandari, Sandeep Shah

Final Decision : Dismissed

Judgement

The petitioner has filed this writ petition seeking following reliefs:

"i) By an appropriate writ, order or direction, the impugned communication dated 21.11.2019 (Annex-10) issued by the respondent No.2 cancelling the candidature of the petitioner for installation of retail outlet at Village Sadri, Tehsil Lohawat, District Jodhpur, may kindly be declared illegal and be quashed and set aside.

ii) By an appropriate writ, order or direction, the respondents be directed to permit the petitioner to install the retail outlet at Village Sadri, Tehsil Lohawat, District Jodhpur after treating the land offered by the petitioner as the appropriate land for installation of the said retail outlet with all consequential directions.

iii) By an appropriate writ, order or direction, the respondents be restrained to conduct fresh draw of lots on 6.12.2019 and further proceed to grant the LOI to the petitioner to install the retail outlet at Village Sadri, Tehsil Lohawat, District Jodhpur.

iv) Any other appropriate order or direction which this Hon'ble Court may deem fit just and proper in the facts and circumstances of the case may kindly be

passed in favour of the petitioner.

v) Costs of the writ petition may kindly be awarded to the petitioner."

Brief fact of the case are that pursuant to the advertisement (Annexure-1) issued by Indian Oil Corporation Limited (for short 'the IOCL' hereinafter) for appointment of dealers of retail outlets for various locations of State of Rajasthan, the petitioner had applied for dealership of retail outlet in village Sadri, Tehsil Lohawat, one of the advertised locations. The application form of the petitioner was found in order and he was asked to participate in draw of lots and after draw of lots, the petitioner was informed that he has been selected in the draw of lots and he was asked to deposit a sum of Rs.40,000/- as security deposit and was also asked to submit various documents. The petitioner along with security deposit submitted the desired documents including details of his land offered for establishment of retail outlet.

The Land Evaluation Committee of the IOCL visited for site inspection and finally informed the petitioner on 21.11.2019 that the land offered by him is situated in revenue village Udaynagar and not in revenue village Sadri, therefore, his candidature has been found ineligible. However, it was stated that candidature of the petitioner shall be considered for selection along with Group-3 applicants as per the guidelines. Being aggrieved with this, the petitioner has preferred this writ petition.

Learned counsel for the petitioner has submitted that the land offered by the petitioner is situated in Patwar Halka, Sadri and, therefore, the action of the respondents of rejecting the candidature of the petitioner on the ground that the land offered by him in revenue village Udaynagar is absolutely illegal. Learned counsel for the petitioner has further submitted that Udaynagar is a part and parcel of village Sadri. He has placed reliance on a certificate issued by Gram Panchayat, Sadri, wherein it is certified that the revenue village Udaynagar was carved out from the revenue village Sadri and on the strength of the same, learned counsel for the petitioner has submitted that the action of the respondents of not treating the land offered by the petitioner situated in Udaynagar is not of the land of village Sadri is absolutely illegal.

Learned counsel for the petitioner has further submitted that in the advertisement (Annexure-1), the location in question is mentioned as village Sadri and not as revenue village and, therefore, the stand of the respondents that the land offered is required to be situated in revenue village Sadri is also not tenable. Learned counsel has also submitted that where the land is required in a specific revenue village, respondents have mentioned the same in the advertisement itself. Learned counsel for the petitioner has referred Annexure-15 in support of above argument. He also placed reliance on decision of this Court in Mohan Lal Soni vs. Hindustan Petroleum Corporation Ltd. & Ors. (SBCWP No.12417/2011 decided on 08.01.2018).

Learned counsel for the petitioner has lastly prayed that the reliefs claimed for in

the writ petition may be granted.

Per contra, learned counsel appearing for the respondent IOCL has vehemently opposed the writ petition and submitted that since the land offered by the petitioner for establishment of retail outlet for location village Sadri is not situated in revenue village Sadri and it is situated in revenue village Udaynagar, the respondents have rightly rejected the candidature of the petitioner vide Annexure-10.

Learned counsel for the respondents has placed reliance on judgment of a Co-ordinate Bench of this Court rendered in Raju Ram Beniwal vs. Indian Oil Corporation Ltd & Anr. (SBCWP No.18014/2019 decided on 04.12.2019), which has been affirmed by Division Bench of this Court vide judgment dated 30.01.2020 passed in D.B.Spl. Appeal Writ No.1530/2019. He has also placed reliance on a decision of Co-ordinate Bench of this Court rendered in Arun Kumar Nagda vs. The Indian Oil Corporation Ltd. & Anr. (SBCWP No.14499/2015 decided on 07.04.2017).

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

The facts, not in dispute, are that the location in question for which the IOCL has invited applications for appointing dealer of retail outlet is mentioned as village Sadri (Tehsil Lohawat, whereas the land offered by the petitioner for location Sadri is situated in revenue village Udaynagar Patwar Halka Sadri. It is also not in dispute that Sadri and village Udaynagar are two different revenue villages.

A Co-ordinate Bench of this Court in Raju Ram Beniwal's case (supra), while adjudicating the similar type of controversy has held as under:

"On perusal of jamabandi of petitioner's land, it is clear that the name of village where petitioner's land is situated, is "Banario Ki Dhani" and Patwar Area is "Nosar". It is, thus, clear that the revenue village, in which petitioner's land is situated, is "Banario Ki Dhani, Nosar" and not "Nosar" as such.

Mr. Mahaveer Bishnoi, learned counsel for the petitioner, has not been able to controvert the assertion of learned counsel for the respondent, that Banario Ki Dhani, Nosar and Nosar are two different revenue villages.

Such being the position, this Court does not find any illegality or error in the decision of the respondent - Corporation, whereby they have rejected petitioner's candidature on account of the fact that the offered land is not in the advertised location/area. This Court does not find any substance in the argument of Mr. Bishnoi that the "area" is broader term and the petitioner's land should be deemed to be falling in Nosar Area. The expression "area" in the impugned communication has been used as a general expression. The advertisement clearly stipulates the location to be Village Nosar, Tehsil Lohawat. Petitioner's land clearly does not fall in the advertised location and his candidature has rightly been rejected."

In Arun Kumar Nagda vs. The Indian Oil Corporation Ltd. (SBCWP No.14499/2015 decided on 07.04.2017), a Co-ordinate Bench of this Court pondering upon the similar type of controversy has held as under:

"6. A bare perusal of the advertisement reveals that the advertised location is village Kailashpuri of District and Tehsil Udaipur and not the Panchayat Area of Gram Panchayat, Kailashpuri. Merely because, Gram Panchayat, Kailashpuri consists of many villages, the petitioner cannot be permitted to propose the location for establishment of the RGGLV in any village falling within the territorial limit of Gram Panchayat, Kailashpuri. The advertised location being village/town specific, obviously, the land proposed for establishment of Showroom/Godown by the candidate must be located within the territorial limit of the village/town. Thus, the action of the respondents in rejecting the candidature of the petitioner on the ground that land offered by him for the purpose of Showroom and Godown was not as per advertised requirement, cannot be said to be illegal or arbitrary."

In view of the above fact situation, I am clearly of the view that the land offered by the petitioner for establishment of the retail outlet for location Sadri is not situated in revenue village Sadri, hence, there is no illegality on the part of the IOCL in issuing the letter dated 21.11.2019 (Annexure-10).

The facts of the case of Mohan Lal (supra), on which the petitioner has placed reliance, are distinguishable because in that case, the land offered by the applicant was recorded in the revenue record of the same village for which applications were invited by the oil company and letter issued by the Up-Tehsildar, Balesar clearly states that the land in question would be recorded in the new revenue village in future but at present the same land is recorded in the revenue village for which applications were invited. Hence, the said decision is of no help to the petitioner.

In view of the above discussion, I do not find any merit in this petition and the same is, therefore, dismissed. There shall be no order as to costs.

Stay petition also stands dismissed.