
(2012) 10 PAT CK 0004
In the Patna High Court
Case No : CWJC No. 2042 of 2011

Yogesh

APPELLANT

Vs

M/s. Bharat Petroleum Corporation Ltd. and Others

RESPONDENT

Date of Decision : 01-10-2012

Acts Referred:

Citation : (2013) 3 PLJR 436

Hon'ble Judges : J.N. Singh, J

Bench : Single Bench

Advocate : Y.V. Giri and Raju Giri, for the Appellant; Sanjay Singh for the Respondent Nos. 1 to 4, Naresh Malhotra, Binod Kumar Sinha and Ms. Mariya Fatima for the Respondent No. 5, for the Respondent

Judgement

J.N. Singh, J.—In view of subsequent developments in the case it is now not necessary to notice all the detail facts from the pleadings. Initially petitioner had filed this writ application for directing the respondent Corporation to disqualify respondent No. 5 from being considered for award of retail outlet and award it to the petitioner who is the second empanelled candidate. The matter was taken up for the first time on 4.3.2011. From the order recorded on that date it appears that specific stand of the petitioner on that day was that the plot No. 787, offered by respondent No. 5, did not measure 35 meter x 35 meter, as required, and had no opening on the main road and in between there was a strip of District Board land of plot No. 788 and there was an overhead electric wire passing over the said land. In view of such submission on behalf of the petitioner, this Court directed notice to be issued to the Corporation authorities as well as to the respondent No. 5 and restrained the Corporation from issuing L.O.I. in favour of respondent No. 5. Thereafter, matter was taken up on the few dates, but without much progress. Finally when the case was taken up on 31.7.2012, this Court found that there was a difference in the photocopies of certified copies of the same registered deed of land produced before this Court by petitioner and respondent No. 5, certified copy of which was said to have been attached by respondent No. 5 with his application before the Corporation. So far as document

produced by respondent No. 5 was concerned. It showed that he had offered plot No. 787 to the Corporation, whereas copy of the same document produced by the petitioner showed that the actual sale deed which the respondent had produced before the Corporation contained the reference of plot No. 757. Both the parties claimed that they had obtained certified copies from the registry office and their document was correct.

2. This Court found that it could not be. Apparently, either of the parties was producing a false or interpolated document before this Court. Hence, by order recorded on that date, this Court directed the Sub-Registrar of the concerned Registry to send a duly certified copy of the sale deed in question and attested by him in a sealed cover to this Court. The seal cover has been received and was opened in the Court on 14.9.2012. The deed sent by the Sub-Registrar of the Registry showed that in the records of the Registry Office the sale deed entered is in respect of plot No. 757 and not of plot No. 787. This clearly demolished the case of the respondent No. 5 that he had offered plot No. 787 to the Corporation which the Corporation on field verification found correct and accepted his application and placed him at serial No. 1. Clearly, at some stage by someone, interpolation was made in the certified copy of the sale deed and it was placed before the Corporation. Thus, a fraud was played in the matter with the Corporation to make it accept the deed of title of a plot which was not actually registered in the Registry Office. In view of this development on that day, learned counsel for the Corporation prayed time to seek Instructions and learned counsel for the respondent No. 5 prayed time to make his stand clear in the matter.

3. Today, learned counsel for the respondent No. 5 submits that when he initially obtained the certified copy of the deed from the Registry Office it contained the number of the plot as 757. He pointed out to the staff of the Registry that the plot number was Incorrect. The deed was accordingly taken back with a promise to make necessary correction and return it to him on the next day. Respondent No. 5 got the corrected sale deed on the next day with plot number as 787. Thus, he tries to impress upon this Court that the conduct of the respondent No. 5 was bona fide and it was the staff of the Registry Office who had done the interpolation in the registered deed. Learned counsel for the respondent No. 5 has also filed a supplementary affidavit in this case on 14.9.2012. With it he has annexed a deed of correction which is Annexure-S/4. This deed of correction appears to have been registered in the Registry Office on 14.8.2012, i.e., much after this Court called for a copy of the deed from the Registry Office in a sealed cover. This deed of correction itself makes it clear that the respondent No. 5 admits that in the records of the Registry Office the sale deed which is recorded is in respect of plot No. 757 and not of plot No. 787. Moreover, after notice, respondent No. 5 appeared in this case on 30th March, 2012 and also filed his counter affidavit. Alongwith the counter affidavit he had annexed a photocopy of the certified copy of the sale deed with plot numbers as 790 and 787 which, on that day, he claimed to be the correct certified copy of the deed.

4. If the submissions of learned counsel for the respondent No. 5 is accepted then there was a mistake in the deed supplied to him by the Registry Office at the very first instance which he had obtained for filing with his application before the Corporation and which was corrected by the Registry officials after respondent No. 5 pointed out the error. This means that in the records of the Registry Office plot number was in fact mentioned at 787, but the document had been issued to the respondent No. 5 mentioned the wrong plot number. This submission of learned counsel for the respondent No. 5 stands demolished by his own document i.e. the deed of correction now being registered on 14.8.2012.

5. Thus circumstances show that an interpolated document was produced by respondent No. 5 before the Corporation alongwith his application for allotment of dealership. Who interpolated the document is not for this Court to decide. But this much is clear that a fraud was played with the Corporation in the matter. The conduct of the respondent No. 5 also gets under cloud from the fact that much after petitioner produced a certified copy of the document on the records of this case bearing plot number as 757, respondent No. 5 again filed another certified copy of the deed, obtained later on from the Registry Office, bearing plot number as 787.

6. Learned counsel for the Corporation submits that, after the respondent No. 5 was placed as L-1 candidate in the panel, field verification was done and plot offered by him was found to be suitable. He also submits that even if the marks allotted to respondent No. 5 for land and infrastructure is deducted, he will still be above in the panel. He also submits that, after the panel was prepared and respondent No. 5 was put at serial No. 1, no objection certificate was sought for from the office of the District Magistrate and, after thorough enquiry, certificate had been issued. He also submits that before this Court passed the interim order, Corporation had issued L.O.I. in favour of respondent No. 5. He also submits that respondent No. 5 has put up the necessary constructions on the site for commissioning of outlet which has been withheld by the Corporation after it came to know about the interim order. Lastly, he submits that commercial interest of the Corporation is involved in the matter and this Court should also take that into account before passing any order.

7. The commercial interest of the Corporation is one thing, but no citizen of the country has right to play fraud with any public authority and get away with it. The very fact that at some stage by some-one fraud was played with the Corporation which resulted into selection of respondent No. 5 as L-1 stage vitiates the entire process and wipes out merits from the case of respondent No. 5.

8. Learned Senior Counsel for the petitioner submits that in case the Corporation finally cancels the selection of respondent No. 5, in terms of clause 16(b) of the Brochure, petitioner is entitled to be issued L.O.I. In the circumstances, this writ application is allowed. This Court directs that the Corporation shall prepare a statement of facts in the light of the materials now available on record and

noticed by this Court and shall send it to the Superintendent of Police, Siwan for taking necessary action in the matter as he may deem fit and proper with due intimation of its result to the Corporation. Till the Superintendent of Police communicates the Corporation in respect of action taken by him and final result thereof, the Corporation is directed to keep the commissioning of outlet of respondent No. 5 in abeyance or otherwise, in their commercial interest, Corporation may take any other decision as it may consider appropriate and necessary. In case, on the report of the Superintendent of Police, selection of respondent No. 5 is decided to cancel by the Corporation, the Corporation will be at liberty to proceed for allotment of outlet as per the provisions of the Brochure.