

Jagwant Kaur Vs Union Of India & Ors

Court: Supreme Court Of India

Date of Decision: Jan. 27, 2025

Hon'ble Judges: Sudhanshu Dhulia, J; K. Vinod Chandran, J

Bench: Division Bench

Advocate: V.Giri, A Velan, Navpreet Kaur, Nilay Rai, Prince Singh, Harshad Sunder, Senthil Jagadeesan, Mrinal Kanwar, Kirti Leela Ratnam, Punit Manoj Agarwal, Vaibhav, Priya Puri, Parul Sharma, Ritim Mangla, Pinki Aggarwal, Sachin Dubey, Vibhav Srivastava, Sharad Kumar Puri

Final Decision: Dismissed

Judgement

K. Vinod Chandran, J

1. Delay condoned. Leave granted.

2. The appellant was before the High Court challenging the allotment of L.P.G. distributorship at Balachaur; applications to which were invited by the

Indian Oil Corporation (for brevity, "the Corporation") by advertisement dated 19.01.2013 for allotment of such distributorship under various

categories in different locations. The 4th respondent turned out successful by draw. of lots held on 18.12.2014. The selection was cancelled initially by

reason of instructions issued by the Ministry of Petroleum and Natural Gas, which stood revived by virtue of the guidelines issued by the Ministry

dated 18.12.2015, later superseded by guidelines of 25.02.2016. The Writ Petition was rejected and the appeal filed therefrom also stood rejected,

against which the petitioner preferred a Special Leave Petition in which we granted leave.

3. Shri V. Giri, learned Senior Counsel appearing for the appellant would contend that, along with the 4th respondent one other applicant had also

proffered the very same piece of land for setting up the distributorship and this invited a disqualification as per the guidelines. The 4th respondent has

now offered yet another land, which was not even available with the 4th respondent at the time when the application was made for the distributorship.

The guidelines issued by the Corporation required possession by virtue of ownership or lease, as on the date of application and subsequent acquisition

either by ownership or lease could not have been accepted by the Corporation. The affidavit filed by the lessor itself conceded that two lease deeds

were executed with respect to the very same land, clearly indicating that the very same land offered by the 4th respondent was offered by another

applicant.

4. Shri Mrinal Kanwar R, learned counsel appearing for the 4th respondent argues that the lessor of the 4th respondent had a larger extent of land

than that leased out to the 4th respondent. Both the applicants were granted lease of equal extents, as per the requirement in the application, but these

were different parcels of land lying contiguously with a still larger extent of property owned by the lessor and his family members. In fact, all the

owners of the larger extent had issued consent letters in favour of the 4th respondent, despite having no interest on the specific property leased out to

the 4th respondent. In any event, to have a quietus and especially in the context of the lessor having resiled from his earlier affidavit; that the subject

property was only leased out to the 4th respondent, there was another property offered which satisfied every requirement for grant of the

distributorship. It is true that the said property was not in the possession of the 4th respondent at the time of the application and such acquisition was

necessitated only because of the shifting stance of the lessor. It is also submitted that the 4th respondent has already established the distributorship and

has been running the same for a number of years and there is no cause for finding a disability to apply; on the 4th respondent, at this juncture.

5. Smt. Priya Puri, learned counsel appearing for the respondent-Corporation supports the 4th respondent and asserts that the inquiries made by the

Corporation clearly indicated that the two applicants, though have taken out lease from very same lessor, there were two different parcels of land,

lying at the location which were also far lesser than the total extent owned by the lessor himself.

6. Before the learned Single Judge, the appellant/writ petitioner had raised a contention that the affidavit of the co-sharers, even as per the guidelines,

though could have been obtained at the time of field verification, such affidavits are to be those executed prior to the date of the application. The

learned Single Judge looking at the specific provision as available in the advertisement, found that the ownership of a land with specific dimensions,

within 15 kilo meters from the municipal/town/village limits, included both the holders of the title of the property or a lessor having registered

agreement for a minimum of 15 years in the name of the applicant or family member, as on the last date of submission of the application. It was held

that "No Objection Certificates" (NOC) would be required only in the context of the ownership or the lease being joint i.e. family members or

third parties joining the applicant as lessees; all having interest in the subject property. In the present case, the applicant alone was the lessee and

hence, there was no requirement for an NOC from the co-sharers.

7. It is also clear from the judgment of the Division Bench that the applicant had obtained lease of 1 kanal 17 marlas of land out of the total of 8 kanals

1 marla 53 sarsai held by the lessor. The property of the lessor was also lying together with a total extent of 52 kanals 4 marlas of property; the

portions of which are in separate possession of different persons. Hence, there was no requirement for any consent since the specific land leased out

by the 4th respondent was under the sole ownership of the lessor, though lying contiguously with a larger extent. Consent, as we discern, would be

required only if the land offered in the application is one with either joint ownership or joint lease. Such a jointly owned or jointly leased out property

when offered for the distributorship, by one of the co-owners or a co-lessee, then a consent from all the other co-owners or co-lessees would be

required. That situation does not arise here since the land offered was owned by one individual and the lease was also to the 4th respondent alone.

8. The lessor had originally executed an affidavit, produced along with Annexure P-10, affirming the lease in favour of the 4th respondent and

confirming that the leased out land was not offered to any other person for the very same purpose. Annexure P-10 also contains the affidavits of the

other owners of the total 52 kanals 4 marlas all of which affidavits are dated 21.12.2017, obtained at the time of field verification; which is only by

way of abundant caution.

9. The learned Single Judge had specifically referred to the guidelines and extracted various provisions; of which Clause 8. 5 having nominal heading

“Procedure For Receipt of Application” indicates non-rectifiable defects, which does not include the absence of NOC from co-owners. Appendix

P of the Brochure which prescribes the format for Field Verification of Credentials (FVC) of individual applicants contains a column with the heading

“Documents to be Verified” mandating notarized affidavits, in case of joint ownership to be made available and further clarifies that if it is not so

made available at the time of application; it be procured at the time of FVC. Admittedly, the affidavits of the land owners were obtained at the time of

field verification and in any event there is no contention raised that there was any joint ownership of the leased out land which was asserted to be in

the sole ownership of the lessor, as authentically verified by the Corporation.

10. True, there was an alternate land offered at the time of letter of intent, which the 4th respondent claims is only by reason of the cloud created on

the lease proffered in the application; through the affidavit filed by the lessor that the very same land was leased out to two applicants. The said

affidavit dated 11.01.2018 is produced at Annexure-11, which is contrary to the affidavit dated 21.12.2017 produced along with Annexure P-10. In the

context of the shifting stand of the lessor, the respondent-Corporation also had verified the same. The Division Bench referred to the fact that the

Patwari (Revenue Official) found the lessor to be the owner of the land measuring 8 kanals 1 marla 3 sarsai out of 52 kanals 4 marlas. The factum of

execution of two lease deeds by the lessor was also confirmed, but the revenue official indicated that the said portions were distinct and different and

the two leases were separately entered in the revenue registers. The mutation proceedings of 2008-09 indicated the entries of the separate lease

deeds; one with respect to the 4th respondent and the other with respect to a third party, both of equal extents and a lease period of 20 years.

11. From the factual findings; which remain uncontroverted by any valid evidence, the 4th respondent did not suffer from any disability by reason of

offering the land, which she had obtained by virtue of a lease deed. The land satisfied all the requirements as per the advertisement and the land

offered by another applicant for the very same distributorship was a separate parcel of land, lying within the larger extent partitioned among family

members of the lessor. The lessor had absolute rights and possession over both the extents leased out as affirmed by the revenue official. We find

absolutely no reason to place any credence on the affidavit of the lessor dated 11.01.2018, which was quite contrary to the earlier affidavit of the

lessor himself. We find that there is clear indication that the lands leased out by the 4th respondent and the other applicant were two separate parcels

owned by the very same lessor.

12. The Division Bench relied on the judgment of this Court in Mrinmoy Maity Vs. Chhanda Koley and others Special Leave Petition (Civil)

No.30152 of 2018 decided on 18.04.2024 wherein it was categorically held that the modification to the guidelines with respect to allotment of L.P.G.

distributorship brought out on 15. 04.2015 provided for offering alternate land where the land initially offered by the applicant was found deficient or

not suitable or change of nature of the land, subject to specifications as laid down in the advertisements being complied with. There is no dispute that

the alternate land offered met the requirement in the advertisement. The argument is that the very factum of the alternate land being offered and

accepted, substantiates the contention of disability visited on the 4th respondent by reason of the land offered in the application being identical to that

offered by another applicant; which contention we have already found to be fallacious. The alternate land has been offered only in the context of the

shifting stance of the lessor; the acceptance of which by the Corporation was possible as per the guidelines, which provided more flexibility in the

allotment process. We find absolutely no reason to interfere with the judgments impugned and reject the contentions raised.

13. Accordingly, the Civil Appeal stands dismissed. The respective parties to bear their own costs.

14. Pending application(s), if any, shall stand disposed of.