

(2011) 03 P&H CK 0528

High Court Of Punjab And Haryana At Chandigarh

Case No: Civil Writ Petition No. 16286 of 2009

Ms. Reena Devi

APPELLANT

Vs

The Indian Oil Corporation Ltd.
and others

RESPONDENT

Date of Decision: March 22, 2011

Citation: (2011) 164 PLR 43

Hon'ble Judges: Ranjit Singh, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Ranjit Singh, J.

Pursuant to an advertisement issued in Danik Bhaskar on 24.02.2009 for appointment of operators for establishing Kissan Sewa Renders, retail outlet, the petitioner submitted an application on 26.03.2009. His application was rejected after scrutiny and the petitioner was declared ineligible on the ground that she had not filed an affidavit given at Annexure "A" attached with the brochure, which was an essential requirement. An applicant is required to furnish an affidavit stating that neither he/she nor his/her spouse, unmarried son(s)/unmarried daughter(s) have dealership/distributorship or hold letter of Intent for Retail Outlet or SLKO-LDO dealership or LPG distributorship of any Oil Company and that he/she has never been convicted nor charges have ever been framed against him/her by any Court of Law for any criminal offences involving moral turpitude and/or economic offences, besides some other requirement. The specimen of the affidavit required to be furnished is as under:

1) That I am an Indian National.

2) That I am unmarried. The neither I, nor my Father, Mother, unmarried brother(s), unmarried sister(s) have dealership/distributorship or hold Letter of Intent for Retail Outlet SKO-LDO dealership or LPG distributorship of any Oil Company.

OR

That I am married. That neither I nor my spouse, unmarried son(s)/unmarried daughter(s) have dealership/distributorship or hold letter of Intent for Retail Outlet or SKO-LDO dealership or LPG distributorship of any Oil Company.

3) That I have never been convicted nor charges have ever been framed against me by any Court of Law for any criminal offences involving moral turpitude and/or economic offences (other than freedom struggle).

4) I hereby confirm that I was never a signatory to dealership/distributorship agreement of any oil company, which was terminated for proven malpractice's and/or for violations of provisions of the Marketing Discipline Guidelines.

5) That against item No. 12 of my application from details of various sources of funds required for setting up and operation of the distributorship has been furnished. I undertake that these funds will be made available for the purpose of setting up and operation of distributorship. In case it is found that the same is not made available as and when required, the offer of distributorship, at any stage, can be withdrawn and that I will have no claim/damages whatsoever against the oil company.

6) That if any information/declaration given by me in my/our application or in any document submitted by me/us in support of application for the award of the LPG distributorship or in this affidavit shall be found to be untrue or incorrect or false, Indian Oil Corporation Ltd. would be within its rights to withdraw the letter of intent/ terminate the distributorship (if already appointed) and that I would have no claim, whatsoever, against Indian Oil Corporation Ltd. for such withdrawal/termination.

2. Concededly, the petitioner had not submitted this affidavit alongwith her application form. As per the counsel for the petitioner, this is highly technical or super technical objection and could not consider that material to result in disqualification of the petitioner. As per the counsel, financial capacity of the petitioner to run this retail outlet, her educational qualification and other such things are more important compared to the condition of submitting of relationship affidavit. Counsel would point out that the petitioner is a Postgraduate and had Rs. 12 lacs to show in her deposit whereas a candidate who is allotted this retail outlet has no finances to show and is just a Matriculate.

3. In my view, the question of considering the comparative merit of applicants would arise if the petitioner had been considered eligible and had made her application fulfilling all the requirements. To urge that requirement of filing the affidavit is only a technical requirement, is misplaced. This requirement is important aspect and cannot be termed as technical requirement but is an essential condition rightly incorporated in the brochure. Surely, the person already having retail outlet cannot

be allowed to manipulate allotments. I do not find any justification to interfere in the decision of the respondents to hold the petitioner ineligible on account of absence of the requirement which is essential.

4. Somewhat similar issue was considered by the Court in the case of Dharampal Kansal v. Indian Oil Corporation Limited, (2008-4) 152 P.L.R. 28. Here, the applicant had not submitted the requisite proof of his residence but had attached copy of ration card and voter identity card. His application was rejected which he had challenged before this Court. It is observed that, "we are of the considered view that there is no merit in the instant petition. The right of the petitioner has emanated from the advertisement dated 25.5.2007 (Annexure P-1) which is a declaration made to the public at large, inviting applications and all applicants are required to be adjudged by the requirement of the advertisement. The residence proof furnished by the petitioner in the form of secondary evidence of a ration card issued by the Food and Supplies, Punjab or it was a voter Identity Card issued by the Election Commissioner. However, the requirement of the respondents was to produce the primary evidence expressly certifying by the competent authority that the petitioner has been the resident of concerned District. Even the certificate sent on 15.11.2007 (Annexure P-6) does not fulfill that requirement".

5. It was, thus, held that the petitioner therein did not deserve consideration by treating him eligible as there may be large number of other similarly situated persons who might have been declared in-eligible on the basis of requirement of the advertisement. The petitioner, thus, would not deserve consideration.

6. The writ petition is, accordingly, dismissed.