

(2014) 08 P&H CK 0176

High Court Of Punjab And Haryana At Chandigarh

Case No: Letters Patent Appeal No. 1258 of 2014 (O&M)

Indian Oil Corporation Limited

APPELLANT

Vs

Jaimal Kumar

RESPONDENT

Date of Decision: Aug. 12, 2014

Hon'ble Judges: Surya Kant, J; Jaspal Singh, J

Bench: Division Bench

Advocate: Ashish Kapoor, Advocate for the Appellant

Final Decision: Dismissed

Judgement

Surya Kant, J.

The Indian Oil Corporation Limited impugns the order dated 29.04.2014 passed by the learned Single Judge whereby the orders rejecting candidature of the respondent for allotment of LPG distributorship at Chandigarh, have been held to be unjustified and consequently quashed.

2. The facts giving rise to the order passed by the learned Single Judge may be briefly noticed.

3. The appellant-Corporation vide advertisement dated 01.12.2007 invited applications for appointment of LPG distributorship at Chandigarh. The distributorship was reserved for Scheduled Caste category. The admitted fact is that the respondent was kept at serial no. 2 in the order of merit whereas one Ms. Puja Singh was placed at no. 3. The candidate placed at no. 1 in order of merit was not offered distributorship as on an enquiry pursuant to a compliant, she was found ineligible.

4. It is also undeniable that as per clause 16 of the Guidelines of Selection of LPG Distributors read with current policy guidelines of the Corporation, candidates upto Sr. No. 3 in order of merit are to be offered distributorship and if none of them is found eligible, in that event, the location is to be re-advertised.

5. It was pursuant to those guidelines that the respondent was considered but vide the impugned communications dated 14.3.2012 and 2.5.2012, his candidature was also rejected on the ground that the affidavit appended by him alongwith application form was defective.

6. The defect in the affidavit, as pleaded before the learned Single Judge, was that instead of mentioning the name of the appellant as "Indian Oil Corporation", it was mentioned as "Indian Corporation" and the word "Oil" was missing due to a typographical error. As soon as this defect was pointed out, the respondent requested to take another affidavit from him but his request was turned down by a subsequent communication.

7. The solitary question that arose for consideration of learned Single Judge was whether the defect in the respondent's affidavit is curable or it rendered him ineligible?

8. The learned Single Judge has viewed that the word "Oil" was omitted due to inadvertent typographical mistake without any consequences, for which the respondent ought not to have penalized. Learned Single Judge also observed that such type of irregularity can now be rectified even as per the Corporation's own policy of 2011 (Annexure R-1/2).

9. The appellant Corporation appears to have filed an additional affidavit before the learned Single Judge pointing out that since the candidate at Sr. No. 3 Ms. Puja Singh was also found ineligible, it was decided to re-advertise the distributorship as per the 2007 policy.

10. We have heard learned counsel for the appellants at some length and gone through the record.

11. Learned counsel cites (i) Sr. Divisional Retail Sales Manager, Indian Oil Corporation Ltd. and others versus [Sr. Divisional Retail Sales Manager, Indian Oil Corporation Ltd. through Poa Holder and Others Vs. Ashok Shankarlal Gwalani,](#); (ii) M/s. Bharat Petroleum Corporation Limited and another versus Ramesh Chand Trivedi, decided by the Supreme Court in SLP (Civil) No. 16474 of 2010, vide order dated 4.10.2010; (iii) Poonam Gupta versus Union of India and others, decided by this Court in LPA No. 479 of 2014, vide order dated 3.7.2014, and [Jaimal Kumar Vs. Hindustan Petroleum Corporation Ltd. and Others,](#) to contend that the defective affidavit rendered the respondent ineligible; the decision to scrap the entire selection calls for no interference and that the respondent in past did not approach this Court with clean hands.

12. Ashok Shankarlal Gwalani's case (supra) lays down that once an irregularity is detected in the matter of selection or preparation of panel, it is desirable to have a fresh selection instead of re-arranging the panel.

13. M/s. Bharat Petroleum Corporation Limited's case (supra) is relied upon to urge that if allotment in favour of the first person has been set-aside, the next candidate in order of merit can not be heard to say that he should automatically be allotted the distributorship being the next eligible candidate in panel.

14. The decision in Poonam Gupta's case (supra) is relied upon to contend that if material information is omitted from the affidavit, the candidature is liable to be rejected.

15. The decision of learned Single Judge in Jaimal Kumar's case (supra) is also cited to point out that the first respondent was the writ-petitioner in that case where he relied upon some false documents and his claim against Hindustan Petroleum Limited was rejected.

16. Having given our thoughtful consideration to the submissions, we are of the considered view that none of the cited decisions advance the case of the appellant Corporation. It was not a case where irregularity was detected in preparation of the selection-panel warranting any rearrangement of panel. The merit list was prepared and notified by the appellant-Corporation. The respondent was admittedly placed at Sr. No. 2 in order of merit. It was the categorical stand of appellant-Corporation before the learned Single Judge that as per their own policy, the dealership could be offered upto Sr. No. 3 in order of merit and if the candidates at Sr. Nos. 1 to 3 are found ineligible, then only the location may be re-advertised. The Corporation did not take any conscious decision to scrap the panel and to issue re-advertisement until the respondent approached the Court against rejection of his candidature. The respondent's claim was actually considered by the Corporation but was rejected on the objection of defective affidavit furnished by him. The defect, according to learned Single Judge, is curable.

17. The view taken in Poonam Gupta's case (supra) also does not help the appellant as there material information was missing in the affidavit filed by the candidate. That is not the case here. As regard to rejection of respondent's claim by a learned Single Judge, no exception can be taken to the view, for anyone approaches the Court with dirty hands must face such consequences.

18. We thus, revert back to the solitary issue, namely, whether the defect in the affidavit furnished by the respondent is curable or is a valid ground to reject his candidature?

19. It appears to us that the view taken by the learned Single Judge is fair, just, plausible and equitable. It calls for no interference by us in exercise of appellate jurisdiction. We say so for the reason that there is not even whisper in the written statement or before this Court that the respondent concealed or attempted to conceal any material information in the affidavit. There is no direct or indirect advantage the respondent can be said to have taken by omitting the word "Oil" in his affidavit. It was a case of human error due to which the word "Oil" was omitted

in the affidavit. The respondent immediately volunteered to furnish a fresh affidavit. The appellant's own policy issued in the year 2011, contemplates to give opportunity to an applicant to rectify such like errors.

20. For the reasons afore-stated, we do not find any merit in this appeal.

Dismissed.