IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT

JODHPUR

O R D E R

S.B.Civil Writ Petition No. 700/2008
(Smt. Kiran Vs. Union of India & Ors.)
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Date of Order : 31/07/2008

P R E S E N T

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. R.K.Soni for the petitioner.
Mr. Jitendra Chopra for the respondents.

BY THE COURT

By the instant writ petition under Article 226 of the Constitution of India, the order Annex.6 dated 16.11.2007 has been challenged by the petitioner and further the petitioner seeks a direction to the respondents to allot Kisan Seva Kendra Retail Outlet Dealership at village Sewaki Khurd.

I have heard learned counsel for the parties.

It is contended by learned counsel for the petitioner that the respondents by advertisement dated 12.07.2005 Annex.1 published in newspaper invited applications for allotment of Kisan Sewa Kendra (for short "KSK" hereinafter) Retail Outlet Dealership in respect of the places mentioned in the

advertisement, in pursuance thereof, the petitioner applied for allotment of KSK at place Sewaki Khurd. The petitioner was called for interview vide Annex.2 dated 20.12.2005 and in pursuance thereof, she appeared in the interview and was selected. However, the candidature of the petitioner came to be challenged by one Taruna Choudhary by way of filing writ petition before this Court being S.B.Civil Writ Petition No.798/2006 in which an interim stay order was passed restraining the respondents to allot the KSK in favour of the petitioner. Subsequently, the interim order came to be vacated, against which, Taruna Choudhary preferred an appeal before Division Bench of this Court being D.B.Special Appeal (Writ) No.811/2006 in which initially the Division Bench granted stay against the petitioner and in favour of Taruna Choudhary, however, subsequently, the same came to be vacated by order dated 5.7.2006. In the meantime, the policy for allotment of KSK came to be changed by the respondents and according to policy decision dated 28.2.2007, the petitioner was held to be ineligible for allotment of KSK at State Highway. Hence this writ petition.

Learned counsel for the respondents has relied on a decision of this Court in Smt. Sapna Dadhich Vs. Indian Oil Corporation Ltd. and Anr., S.B.Civil Writ Petition No.7837/07 decided on 10.4.2008 and submits that the controversy involved in the instant case stands concluded by the decision of this Court

dated 10.4.2008 in which similar order Annex.6 came to be challenged by the petitioner therein challenging the cancellation of location for allotment of KSK for which advertisement issued and the respondent Corporation came with a case that cancellation of site for allotment of KSK pursuant to policy decision cannot be said to be illegal rather it always remains within the domain of the administration to take policy decision which otherwise is not suffering from a voice of malafides because the case of the petitioner has not been taken in isolation inasmuch as hundred of sites have been cancelled vide Annex.6. However, if in future or after some time, the respondents take a decision to open the site on the place for which selection was made then at least the petitioner should be given retail outlet on priority and on these premise, the writ petition came to be dismissed.

In my view, it always remains in the domain of the administration to take a policy decision. When the policy decision is taken that KSK shall not be allotted on the State Highway, in my view, such policy decision taken by the respondents cannot be said to be subjected to judicial review. The respondents, in order to explore the better business prospectus, have decided not to allot the KSK at State Highway, however, other than on State Highway, the allotment of KSK Outlet has not been prohibited.

In this view of the matter, the controversy stands concluded by the decision of this Court in Smt. Sapna Dadhich Vs. Indian Oil Corporation Ltd. and Anr. (supra), and therefore, I find no good ground to interfere with the order impugned. The writ petition is therefore, dismissed. No order as to costs.

(H.R.PANWAR), J.

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S.B.CIVIL MISC. STAY PETITION NO. 1141/08

IN

S.B.CIVIL WRIT PETITION NO. 700/2008

Date of Order : 31/07/2008

P R E S E N T

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. R.K.Soni for the petitioner.

Mr. Jitendra Chopra for the respondents.

Since the writ petition itself has been dismissed, the stay petition also stands dismissed.

(H.R.PANWAR), J.

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