

## ***HIGH COURT OF ORISSA: CUTTACK***

### **Writ Appeal No.145 of 2014**

From the judgment and order dated 29.3.2014 passed by the learned Single Judge in WP(C) No.26820 of 2013.

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Satyanarjan Mallick ..... Appellant

*Versus*

Indian Oil Corporation Ltd. & others .... Respondents

For the Appellant ... Mr.Bibhu Pr.Tripathy, Advocate

### **PRESENT:**

**THE HONOURABLE CHIEF JUSTICE MR. A.K.GOEL  
AND  
THE HONOURABLE DR. JUSTICE A.K.RATH**

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Date of hearing: 30.04.2014 : Date of judgment: 30.4.2014

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**Dr. A.K.Rath, J.** This writ appeal has been filed under Clause-10 of the Letters Patent Act against the order dated 29.03.2014 passed by the learned Single Judge in W.P.(C) No.26820 of 2013. By the said order the learned Single Judge dismissed the writ petition and, thereby confirmed the decision of the Indian Oil Corporation Limited (hereinafter referred to as 'the IOCL'), respondent no.4, rejecting the candidature of the appellant for regular LPG distributorship in respect of Betanoti area and consequential selection of respondent no.5 for the same.

2. Case of the appellant is that the IOCL issued an advertisement on 25.3.2012 for appointment of LPG distributorship at different locations in the State of Orissa. One of the location is Betanoti in the district of Mayurbhanj. Pursuant to said advertisement, the appellant along with others had applied for LPG distributorship in respect of Betanoti area. After verification of the documents, two candidates were short-listed including the appellant. The final draw for selection was held on 18.2.2013. He was selected. Thereafter, the IOCL issued a letter to the appellant on 17.4.2013 for verification of documents and field inquiry. The IOCL had also sought a clarification from the Tahasildar, Betanoti on 17.4.2013 regarding constituent villages of Betanoti G.P.. In response to the said letter, the Tahasildar, Betanoti submitted his report on 25.4.2013 providing the constituent villages of Betanoti G.P. The further case of the appellant is that the IOCL had verified all the relevant documents and also made field inquiry. While the matter stood thus, a letter was issued by the IOCL on 27.11.2013 rejecting the candidature of the appellant on the ground that the land details given for the proposed showroom is not situated at the relevant advertised location. On the same day, respondent no.5 was declared selected.

3. Relying on the impugned letter dated 27.11.2013, Annexure-6, issued by the IOCL to the appellant that during field inquiry, the appellant could not produce the land record pertaining to his first land offered for showroom at mouza-Betanoti and that the second land offered by him at

mouza-Bahagbati is not at the advertised location, the learned Single Judge dismissed the writ petition.

4. We have heard Mr. B.P. Tripathy learned counsel for the appellant.

5. Relying on the decisions of the Allahabad High Court in the case of *Smt. Astha Gupta Vs. Union of India and others*, Writ-C No.28633 of 2013 disposed of on 9.7.2013 and Bombay High Court in the case of *Mukesh Vs. Indian Oil Corporation Limited*, Writ Petition No.5232 of 2009 disposed on 10.01.2011, Mr. Tripathy submits that mouza-Bhagabati is approximately 100 mtr. from Betnoti. He further submits that advertisement is not specific whether the area is limited to Betanoti town or Betanoti Block or Betanoti G.P. and as such it should be construed in border sense. The proposed showroom offered by the appellant is within the Betanoti G.P. and as such action of the IOCL rejecting the candidature is liable to be quashed.

6. In *Smt.Astha Gupta (Supra)*, the IOCL issued advertisement for appointment of LPG distributors at different places in the State of U.P. At Sl. No.213 of the advertisement, the Corporation intended to appoint LPG distributor for Auraiya. In response to the said advertisement, the petitioner along with others submitted application for being appointed as distributor for Auraiya. The petitioner was selected for the above location. One Smt. Snehlata filed a complaint before the IOCL on the ground that the land offered by Smt.Ashtha Gupta for showroom was not within the

locality advertised for and, accordingly, her selection was not proper. On perusal of the record, the Court found the districts described is Auraiya and the location described is also Auraiya. The Court came to hold that the location has been described as Auraiya and indisputably Auraiya is a district. The advertisement does not specify the location within the municipal limits of district Auraiya. It is further held that if the locality has been described as Auraiya, any land within the district of Auraiya could be offered for appointing the distributor and it could not be confined to the municipal limits of Auraiya. The said decision is distinguishable in the facts and circumstance of the case. In the instant case, location has been described as Betnoti in the district of Mayurbhanj. In the case of *Mukesh (Supra)*, the petitioner had approached the Bombay High Court against removal of his name from the panel prepared for selection of distributorship of LPG for Mouda. The petitioner's name has been removed on the sole ground that the site for showroom proposed by him is not located in the township of Mouda. Relying on Clause 13.2 of the advertisement, the Court came to a conclusion that there shall be a show room located in the area of operation "trading area" of the advertised location of the LPG distributorship. The same clearly means that it was not necessary for the showroom to be located in the township of Mouda but could be located in the area of operation of the advertised location. The writ petition was allowed on the ground that the proposed showroom is located within the area of operation of the concerned location at Dahali, which is

located within 15 kms. radius from Mouda near the village Dahali. With profound respect, it is not possible on our part to accept the view expressed by the Bombay High Court and we respectfully differ from the same. The criteria laid down in the guidelines for consideration of godown and showroom is totally different. In order to avoid any untoward incident, clause 13.2 of the advertisement provides construction of godown within 15 kms from the area of operation. The said criteria cannot be read into for construction of showroom; when the advertisement is specific that the showroom is to be located at Betanoti.

7. On a conspectus of advertisement, Annexure-1, to the writ petition, it is evident that at sl.30, location is described as Betanoti in the district of Mayurbhanj. When the area is specific, then the Court cannot make a roving inquiry under Article 226 of the Constitution to find out as to whether mouza-Bhagabati is within Betanoti G.P. The advertisement has been issued by the IOCL for appointment of LPG distributors at locations specified therein to cater the needs of the general public. When the location is specific, the candidate applying for LPG distributorship must have a showroom in that locality only. Furthermore, clause 15.2 of Brochure on Guidelines for Selection of Regular LPG Distributors provides that a showroom is to be made in a shop/land located in the advertised location or locality as specified in the advertisement and the same should be easily accessible to general public. Clause 15.1 provides that for construction of godown, the plot of land should be of adequate size within 15 kms. from

municipal/town/village limits of the location offered; but the same is not the case of showroom. The showroom is to be made in a shop/land located in the advertised location only.

8. In view of the same, we do not find any infirmity in the order of the learned Single Judge so as to warrant our interference.

The appeal is dismissed.

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**JUDGE**

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**CHIEF JUSTICE**