

HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU

OWP No. 150/2012
MP No. 189/2012

Date of order: 26.04.2016

Piara Lal Choudhary	Vs.	U.O.I & ors.
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Coram:

HON'BLE MR. JUSTICE MOHAMMAD YAQOOB MIR, JUDGE

APPEARING COUNSEL:

For the Petitioner/Appellant(s): Mr. Gagan Basotra, Advocate.

For the Respondent(s) : Mr. Kabir Kotwal, Advocate.

i) Whether approved for

reporting in Press/Media : Yes/No/Optional

ii) Whether to be reported in

Digest/Journal : Yes

ORAL

Notice for appointment of LPG distributors at five locations as made mention of in the Notice include location at "Akhnoor" regarding which petitioner claims to have submitted his requisite application on 08.10.2011. The last date for receipt of such application was fixed as 10.10.2011 as is clear from Clause 8 of the said Notice.

Petitioner claimed that he had submitted a lease deed on 10.10.2011. Respondent-Authorities have conveyed to the petitioner vide letter dated 21.12.2011 that the lease deed submitted by him is not readable, therefore, he shall

submit a readable copy. In response whereof, petitioner, on 26.12.2011, has submitted the Certified True Copy of registered lease deed dated 10.10.2011 of shop and land for storage of LPG products as desired.

Vide letter impugned dated 16.01.2012, it has been conveyed to the petitioner that his candidature has not been found to be eligible for LPG distributorship as the lease deed submitted by him has been registered in the Court of Sub-Registrar, Akhnoor on 10.10.2011 while as the date for receipt of application as per office records and cash receipt is 08.10.2011, hence the same has not been considered.

The contention of the petitioner is that he had submitted his application on 08.10.2011, the lease deed was registered on 10.10.2011 by Sub-Registrar, Akhnoor on 10.10.2011. On the same date, the lease deed was submitted, so admittedly within the stipulated time.

The requirement as per Clause (8) of the Notice is that application along with enclosures complete in all respects has to be submitted so as to reach to the office of the

respondent-Authority before the close of Office on 10.10.2011.

It can't be the case of the respondents that copy of the lease deed was not submitted well within the time in view of their own admission, i.e. in terms of letter dated 21.12.2011. They have conveyed to the petitioner that the lease deed is not readable, readable copy shall be submitted. This they have done in view of the procedure prescribed as is envisaged by Brochure on guidelines for selection of regular LPG distributors. Clause 9.5 envisages that in case any deficiency is found in the application, a letter would be sent to the applicant to rectify the deficiency within a specified period of time. The letter has been sent to the petitioner only to make up the deficiency, i.e. to submit readable copy of the lease deed, which he has submitted.

In the objections as filed by the respondents, it is stated that the petitioner has admitted that his lease deed was registered on 10.10.2011, which was the last date for receiving the application, as such, applicant has no right of consideration for dealership. Then in para (5), it has been

stated that the respondent-Corporation came to know that the earlier lease deed submitted on 08.10.2011 was false and frivolous whereas the lease deed submitted in response to letter dated 21.12.2011 was registered on 10.10.2011 after the filing the application form, as such, petitioner has tried to befool the Corporation and the Corporation has rightly rejected the candidature for dealership on a very genuine ground.

The short point for determination is as to whether the petitioner has submitted any lease deed or copy of the lease deed with his application as submitted to the respondent-Corporation on 08.10.2011. If answer is yes, then it shall be quietly inferable that the petitioner has played a trick so as to validate his candidature and then subsequently has got lease deed registered on 10.10.2011 but in case he had not submitted any lease deed or a copy thereof with the application form then his stand that infact he got the lease deed registered on 10.10.2011 and submitted the same on same day appears to be genuine because submission of the lease deed is not denied in view of the letter pursuant to

which the petitioner had been asked to submit the readable copy of the lease deed.

Learned counsel for the respondent produced the records.

Perusal of the application, as has been submitted by the petitioner, reveals that amongst the list of enclosures mention of lease deed is not there. At the bottom of the application under the caption “**List of Enclosures**” is recorded as under:-

1. Copy of Eligibility Certificate for the category applied.
2. Demand Draft No.529146 dated 05.10.2011
3. Notarized Affidavit in originals per the format in Appendix-1.
4. Notarized Affidavit in original as per the formant in Appendix-2.
5. Total number of pages of the application including attachments.

The stand of the respondents that the submission of the lease deed along with application form as per their own records is not found correct.

Petitioner admittedly could not show any receipt regarding submission of his lease deed on 10.10.2011 but same pales into significance in view of the admission by the

respondents because in their letter dated 21.12.2011 they have asked the petitioner to submit the readable Certified True Copy of the registered lease deed that would suggest that he had submitted his lease deed well on 10.10.2011.

On the aforesaid ground, rejection of the candidature of the petitioner is found to be untenable, as such, the letter dated 16.01.2012, conveying to the petitioner that his candidature has not been considered, is quashed. The respondent-Corporation shall consider the petitioner along with all other eligible candidates for the LPG Distributorship for the location "Akhnoor" and thereafter pass appropriate orders as shall be warranted under law. Record as produced by learned counsel for the respondent be returned to him.

Disposed of as above.

(Mohammad Yaqoob Mir)
Judge

Jammu
26.04.2016
Pawan Chopra