

**Court No. - 34****Case :-** WRIT - C No. - 12915 of 2015**Petitioner :-** Rizwan Ahmad**Respondent :-** The General Manager Indian Oil Corporation Ltd. & 2 Others**Counsel for Petitioner :-** R.D. Yadav**Counsel for Respondent :-** Archana Singh**Hon'ble Sudhir Agarwal,J.****Hon'ble Vivek Kumar Singh,J.**

1. Heard Sri R.D. Yadav, learned counsel for the petitioner and learned Standing Counsel for the State-respondent.

2. Indian Oil Corporation (hereinafter referred to as I.O.C.) issued an advertisement in daily newspaper 'Dainik Jagran' on 12.10.2011 inviting application for setting up Kisan Seva Kendra (hereinafter referred to as KSK) dealership for corporation Manikpur Asna, Ghosi, Madhuban Road, District Mau, under the above category. Petitioner Rizwan Ahmad has applied for the same, but has been held not qualified and Bijendra Rai has been selected for the said allotment. Earlier petitioner approached this Court in Writ Petition No.41178 of 2013 which was disposed of vide judgement dated 30.7.2013 asking authorities concerned in I.O.C. to decide petitioner's representation. Pursuant thereto General Manager, I.O.C. at Lucknow office has passed impugned order dated 8.12.2014 which has been challenged in the present writ petition. Holding the petitioner unqualified, respondent authority has recorded following reasons in impugned order dated 8.12.2014:-

*"Investigation has revealed that Sh. Bijendra Rai had offered land having Gata no.690 & 691 which was under the co-ownership of 3 persons namely Sh. A Haiee, Sh. Sofiyan & Sh. Etehsan. Whereas Sh. Sofiyan & sh. Etehsan has leased the land for a period of 25 years to Sh. Bijendra Rai, the other co-owner namely Sh. A. Haiee had given notarized consent affidavit which was enclosed with the application form. Therefore, Sh. Bijendra Rai was entitled for award*

*of marks. Further, Sh. A. Haiee on 19.1.2014 has re-confirmed in writing that the consent affidavit was given by him in favour of Sh. Bijendra Rai. Therefore, the complaint matter of Sh. Rizwan Ahmad is not substantiated.*

*Regarding the land reported to be 'Bagh', it has observed that some mango tree were existing on the land which has been duly considered by Land Evaluation Committee for award of marks. Regarding the allegation that the said land of Sh. Bijendra Rai was mortgaged with Union Bank of India, it has been found that the said land was mortgaged to Union Bank of India from 30.07.2010 to 07.02.2014; therefore, the issue with regard to "Bagh" and mortgage of land is substantiated. However, as the existence of Mango Tree has been duly considered while evaluating the land and the land being mortgaged does not affect the validity of lease and moreover the lease deed was duly registered in the competent office therefore, these two issues are of no consequence.*

*On the other hand the land gata no.732 offered by Sh. Rizwan Ahmad is under the joint ownership of Sh. Uzruddin, Sh. Nazeer Ahmad and Sh. Faiz Ahmad. However, the consent affidavit of only Sh. Nazeer Ahmad has been enclosed and consent affidavit of other two co-owners have not been submitted alongwith the application. Therefore, the complaint Sh. Rizwan Ahmad is entitled for "0" marks for the land.*

*Regarding the marks given for 'Experience', it has been found that the marks given to both the candidates namely Sh. Bijendra Rai & Sh. Rizwan Ahmd are correct in view of the fact that Sh. Bijendra Rai has submitted Experience Certificate of being the Manager as M/s Rai Brothers and is entitled for full marks as per the policy. On the other hand, Sri Rizwan Ahmed has been awarded only 1 mark for experience due to the fact that the certificate has been issued for his working in the capacity of Deputy Manager at M/s Bilariyaganj Service Station, therefore the same has been treated in others category. As such, the marks given under experience to both the candidates are as per the policy guidelines and the complaint matter is not substantiated.*

*Investigation has revealed that the existence of mango trees has been duly accounted by Land Evaluation Committee at the time of*

*land evaluation. Moreover, short payment of stamp expenses does not hold any merit at this stage as the lease deed is duly registered in the office of Sub Registrar at Mau. Therefore, the issue with regard to payment of less stamp duty is non consequential with regard to the selection procedure.*

*3. Sh. Rizwan Ahmed had alleged that he had attached consent affidavits of his father Sri Azharuddin, Aunt Fahmeeda and Nazeer Ahmed for consideration of marks under 'Capability to arrange Finance'. No specific allegation has been raised.*

*Investigation has revealed that the marks given to Sh. Rizwan Ahmad under the heads of 'Liquid Cash', 'Other Assets', 'Other Sources of Income', 'Credit Worthiness' are correct and as per the policy guidelines. Whereas full marks have been given in all other sub-heads, zero marks were given under the sub head 'Other Source of Income' as no supporting documents were attached by Sh. Rizwan Ahmad.*

*4. Sh. Rizwan Ahmad had alleged that it is unfair to award marks on land of Sri Bijendra Rai in view of the conditions of advt. dated 12.10.11. Condition No.10 (Gha) states that no document can be accepted after last date of submission 11.11.2011 and the said land was released from mortgage on 14.2.2012."*

3. With regard to aforesaid findings recorded by General Manager, petitioner could not show the same incorrect or perverse. These are finding of facts and there is nothing to show that the said findings are incorrect or perverse. We, therefore, do not find that any case warranting interference under Article 226 of the Constitution is made out.

4. The writ petition is, therefore, dismissed with cost of Rs.5,000/-.

5. Interim order, if any, stands vacated.

**Order Date :- 27.10.2017**

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