2025:AHC:194986-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 38168 of 2025

AFR

Sone Lal

.....Petitioner(s)

Versus

The Union Of India And 2 Others

.....Respondent(s)

Counsel for Petitioner(s)	:	Rajneesh Kumar Singh
Counsel for Respondent(s)	:	A.S.G.I., Yash Padia

Court No. - 40

HON'BLE SARAL SRIVASTAVA, J.
HON'BLE SUDHANSHU CHAUHAN, J.

1. Heard learned counsel for the petitioner, Sri Manoj Kumar Singh, learned counsel for respondent no.1-Union of India and Sri Yash Padia, learned counsel for respondents no.2 & 3.

2. The petitioner by means of the present writ petition has assailed the order dated 20.09.2025 passed by respondent no.3-Head of the Territory Office/Territory Manager (Retail), Mathura, whereby he has placed the petitioner in Category-3 in respect to the categories of land defined in para 4 (vi) of the 'Brochure of Selection of Dealers for Regular and Retail Outlets' (hereinafter referred to as 'Brochure of Selection').

3. The respondent-Corporation has issued an advertisement on 28.06.2023 inviting applications for establishment of retail outlet in Village-Salempur Karhal Kishni Road, Tehsil-Karhal, District Mainpuri.

4. The petitioner being eligible for getting retail outlet, submitted an application pursuant to aforesaid advertisement dated 28.06.2023. According to the petitioner, he fell in the category of Group-1 of the land categorized in Para-4 (vi) of the Brochure of Selection, therefore, he mentioned Category-1 of the land defined in Para-4 (vi) of the Brochure of Selection in the application.

5. The petitioner claims that he has been provisionally selected by the

respondent Corporation by order dated 07.02.2025. The petitioner thereafter submitted lease deed in respect to the land offered by him for establishing the retail outlet. According to the petitioner, lease deed of the petitioner dated 04.09.2023 complies with all the requirements of land falling in Category-1 inasmuch as the petitioner has suitable piece of land in the advertised location by way of long term lease for a period of minimum 19 years 11 months, which is evident from the lease deed of the petitioner.

6. On the aforesaid facts, the petitioner alleges that he has been wrongly placed in Category-3 of the land categorised in Para-4 (vi) of the Brochure of Selection.

7. Sri Padia, learned counsel for respondents no.2 & 3 on instructions states that pursuant to the advertisement, draw of lots for selection of candidate for retail outlet took place firstly on 16.12.2023 in which a candidate was selected, but his credentials were not found proper, therefore, his candidature was rejected. He further states that draw of lot second time took place on 19.06.2024 in which again a candidate was selected, but since his credentials were not found correct, therefore, candidature of the said selected candidate was also rejected. Lastly, a draw of lot for selection of candidate for retail outlet took place on 07.02.2025 in which petitioner was provisionally selected, and a provisional selection letter was issued to the petitioner with the condition that if the petitioner satisfies the conditions embodied in the said letter, only then the final allotment shall be offered to him.

8. The facts which has been stated by the learned counsel for the respondents have not been disputed by the learned counsel for the petitioner.

9. Learned counsel for the petitioner does not dispute the fact that on earlier two occasions i.e. 16.12.2023 and 19.06.2024, draw of lot took place for selection of candidate, but petitioner was not selected and retail outlet was not offered to him.

10. At this juncture, it is also important to note that after hearing the learned counsel for the petitioner and learned counsel for the Corporation, this Court was of the view that no prima facie case for grant of interim order has been made out, and petitioner could make out a case for inviting counter affidavit, therefore, the Court was inclined to call for a counter affidavit, but the learned counsel for the petitioner insisted for disposal of the writ petition, therefore, the Court is proceeding to dispose off the writ petition on

the facts which have been stated by the learned counsel for Corporation as noted above and these facts have not been disputed by the learned counsel for the petitioner.

11. Challenging the said order, learned counsel for the petitioner has urged that respondent no.3 has wrongly interpreted Clause-10 of the lease deed inasmuch as Clause-10 of the lease deed which has been relied upon by the Corporation does not prejudice the Corporation in any manner nor hampers the establishment of retail outlet, inasmuch as the said condition stipulates that only in case the retail outlet is not allotted to the petitioner, the lease deed would stand cancelled. It is submitted that in the instant case, provisional allotment letter has been issued to the petitioner, therefore, Clause-10 of the lease deed is not attracted as the petitioner had been selected for establishment of retail outlet. Therefore, the impugned order placing the petitioner in Category-3 in place of Category-1 is illegal, erroneous and based on misinterpretation of Clause-10 of the lease deed.

12. He further submits that while interpreting the lease deed, there should be harmonious construction of the stipulation contained in the lease deed so as to achieve the real object of the document i.e. lease deed, and thus, the impugned order cannot be sustained in law. In this regard, learned counsel for the petitioner has placed reliance upon a judgement of the Patna High Court reported in ***AIR 2020 Patna 127 Shankar Kumar Bhagat Vs. the Indian Oil Corporation Limited.***

13. Per contra, learned counsel for the respondents would contend that in the instant case, there is no illegality in the impugned order inasmuch as it is not disputed that on earlier two occasions i.e.16.12.2023 and 19.06.2024 when the first and second draw of lots took place, the petitioner was not selected. If the condition no.10 is read in the light of the aforesaid fact, it is evident that once the petitioner was not selected in the first and second draw of lots held on 16.12.2023 and 19.06.2024, the condition no.10 of the lease deed gets attracted and the lease deed automatically stood cancelled till it is ratified by the lessor that he will not take any action for eviction of the petitioner from the lease property on the basis of condition no.10. Accordingly, it is submitted that there is no illegality in the impugned order.

14. We have heard learned counsel for the parties and perused the record.

15. Brochure of Selection annexed at page-35 (Annexure-4) defines the

eligibility criteria for individual applicants-proprietorship/partnership. Para-4 (vi) of the Brochure of Selection prescribes category of land (applicable to all categories). For convenience, Para-4 (vi) of the Brochure of Selection is reproduced herein-below:-

> *"(vi) Land (Applicable to all categories):*
>
> *The applicants would be classified into three groups as mentioned below based on the land offered or land not offered by them in the application form:-*
>
> *Group-1: Applicants having suitable piece of land in the advertised location/area either by way of ownership/long term lease for a period of minimum 19 years 11 months or as advertised by the OMC.*
>
> *Group-2: Applicants having Firm Offer for a suitable piece of land for purchase or long-term lease for a period of minimum 19 years 11 months or as advertised by the OMC.*
>
> *Group-3: Applicants who have not offered land in the application. Only applicable for locations advertised under SC/ST category.*
>
> *Applications under Group-3 would be processed/advised to offer land (Annexure - D) only in case no eligible applicant is found or no applicant get selected under Group -1 & Group-2"*

16. Perusal of Para-4 (vi) of the Brochure of Selection is clear and unambiguous and categorise the land for establishment of retail outlet in 03 Categories. Petitioner claims that he falls in Category-1.

17. Perusal of Category-1 indicates that the applicant should have suitable piece of land in the advertised location/area either by way of ownership/long term lease for a period of minimum 19 years 11 months or as advertised by the OMC. In the instant case, it is not disputed that the respondent Corporation had put the petitioner in Category-1 when the first draw of lots was drawn on 16.12.2023. Even at the time of second draw of lots and third draw of lots, the respondents had put the petitioner in Category-1.

18. So far as at the time of first draw of lots is concerned, the petitioner was eligible and fell in Category-1 of the category of land described in para-4 (vi) .

19. It is only after the provisional selection of the petitioner, the further

formalities are required to be done for issuance of the final allotment letter, and as per the provisional selection letter of the petitioner, the petitioner has to comply with the requirements embodied in the provisional selection letter. One of the condition embodied in the provisional selection letter is that the petitioner is to furnish documents of ownership and only at this stage, respondent-corporation asked for ownership document to verify the nature of ownership of the petitioner in respect to land which he has offered for establishment of retail outlet.

20. It is pertinent to point out that the document of title of the candidate was not before the respondent Corporation at the time of draw of lot. If the documents of title were before the Corporation, and the process of selection provides the scrutinising of documents of title before draw of lot for selection of candidate, the petitioner would not have been considered in Category-1 at the time of draw of lot held second time and third time on 07.02.2025 for selection of the candidate as he was not selected in the first draw of lot and some other candidate was selected. Since, the petitioner was not selected in the first draw of lot, the condition no.10 of the lease deed gets attracted after the draw of first lot.

21. Clause-10 of the lease deed is reproduced herein below:-

"10. यह कि यदि पेट्रोलपम्प स्वीकृत नही होता है। तो यह लीजडीड स्वतः ही निरस्त मानी जायेगी।"

22. Perusal of Clause-10 of the lease deed is unambiguous and clear and states in specific term that in case, the petrol pump is not allotted to the petitioner, the lease deed would stand automatically terminated. If the condition no.10 of the lease deed is read in the light of the fact that the petitioner was not selected in the first draw of lot held on 16.12.2023, it is clear that the Clause-10 of the lease deed is attracted, and enables the lessor to invoke the said clause to get the petitioner evicted by adopting due process of law.

23. Sri Padia, learned counsel for the respondents has also informed the Court that it is the company funded outlet under Scheme Corpus Fund (SCF). It is obvious that no prudent man would make huge investment over a land, the title of which is under cloud or even disputed by fraction as in the instant case. If the lessor adopts legal procedure for a decree for eviction in view of Clause10 of the lease deed, the chances of success of lessor in

getting the eviction decree is bright, and huge investment of the Company would go in vain, and the company would suffer substantial loss.

24. In such view of the fact, we find that the reasons given by the respondent no.3 in placing the petitioner in Category-3 by placing reliance on condition no.10 of the lease deed does not suffer from any error and illegality.

25. So far as the judgement relied upon by the learned counsel for the petitioner in the case of ***Shankar Kumar Bhagat (supra)*** is concerned, the said judgement is of no help to the petitioner, inasmuch as in the said case, the candidature of the petitioner was rejected on the ground that the land documents submitted by him were not found valid for considering the offered land under Group-1 and his candidature had been found ineligible. In the said case, the petitioner got a lease deed executed on 18.12.2018, and he in order to rule out any ambiguity in the text and recital of lease deed dated 18.12.2018 got executed, a rectification lease deed dated 19.03.2019 by which it was clarified that the lease deed executed and registered on 18.12.2018 is valid for a period of 29 years with effect from the date of execution and registration i.e. 18.12.2018. The ground on which the land document was rejected was that it did not meet the requirement in terms of Clause 4 (v) (a) of the brochure which provides that the land should be available with the applicant as on the date of application and should have minimum lease of 19 years and 11 months from the date or after the date of advertisement but not later than the date of application, whereas the lease deed dated 18.l2.2018 submitted by the petitioner under the head description of the leased land in Mauza Rampur mentioned that the period of lease will be valid for 29 years after getting the licence from I.O.C.

26. The said objection was repelled by the Patna High Court and it held that the Oil Company has erred in construing the registered instrument dated 18.12.2018 inasmuch as it has filed to look into the complete contents of the lease deed which clearly provides that the lease deed had been made from the same date for a period of 29 years on the annual rent of Rs.95,000/- and the lessee has taken over the possession of the land.

27. In the instant case, there is no such rectification deed as was in the case of ***Shankar Kumar Bhagat (supra)*** relied upon by the learned counsel for the petitioner. In the instant case, Clause-10 of the lease deed which has been relied upon by the Oil Company is unambiguous and clearly stipulates

that in the event, the petrol pump is not allotted, the lease deed would stand cancelled automatically, therefore, the law enunciated in the judgement of ***Shankar Kumar Bhagat (supra)*** does not come to rescue the petitioner.

28. Thus, for the reasons given above, the writ petition lacks merit and is accordingly ***dismissed*** with no order as to costs.

November 6, 2025
NS

(Sudhanshu Chauhan,J.) (Saral Srivastava,J.)

Digitally signed by :-
NITIN KUMAR
High Court of Judicature at Allahabad