

**IN THE GAUHATI HIGH COURT**  
(THE HIGH COURT OF ASSAM, NAGALAND, MIZORAM & ARUNACHAL PRADESH)  
**ITANAGAR BENCH**

**W.P.(C) No. 58 (AP) of 2017**

Miss Odi Jerang,  
D/o Vijay Jerang  
R/o Village Ruksin , P.O. & P.S. Ruksin  
District East Siang, Arunachal Pradesh.  
Mobile- 8014926581, Email-NIL

.....**Petitioner**

**-Versus-**

1. The Indian Oil Corporation Limited,  
represented by its Chairman,  
having its Registered Office at G-9,  
Ali Yavar Jung Marg, Bandra (East), Mumbai- 400051.
  
2. The Chief Divisional Retail Sales Manager,  
Guwahati Division Office, of Indian Oil Corporation Limited  
4<sup>th</sup> Floor, East Point Tower,  
Bamunimaidam, Guwahati- 781021, Assam
  
3. Smti. Ponung Tabing,  
W/o Shri. Krling Mengu,  
P/R/O- Vill- Takilalung  
P.O- Yagrung, P.O- Pasighat East Siang District. AP

(As directed, vide order dated 30.06.2017 passed in  
I.A No. 101/17 the name of the following person  
impleaded as respondent No.3).

.....**Respondents**

**- BEFORE-  
HON'BLE MR. JUSTICE S.SERTO**

|                               |   |   |
|-------------------------------|---|---|
| For the Petitioner            | : | Mr. R. Sonar,<br>Mr. L. Tapa,<br>Mr. T. Tatam,<br>Mr. T. Shiva,<br>Mr. N. Bagang, Advs. |
| For the respondents No. 1 & 2 | : | Mr. T. Tapak, Adv.  |

For the respondent No. 3 : Mr. R. Saikia,  
Mr. K. Lollen,  
Mr. L. Nochi,  
Mr. R. Bori,  
Mr. L. Bam,  
Mr. M. Ado,  
Mr. I. Bagra, Advs.

Date of hearing : **22-08-2017**

Date of judgment : **25.08.2017**

**JUDGMENT & ORDER**  
**(CAV)**

**1.** The petitioner is one of the applicants for Retail Outlet Dealership at location from Ruskin to Pasighat on N.H-52, district-East Siang under ST category. Her Application No. 1/15 was accepted, therefore, she was informed by Indian Oil Company, vide letter No. GDO/RS/AR/LEC/1/15, dated 29.11.2016, that land evaluation committee of the company would be visiting to see suitability of the land offered by her for establishing the Retail Outlet Dealership on 15.12.2016. Accordingly, the committee visited the site, however, the Indian Oil Company, vide letter No. GDO/DS/AP/1/15, dated 03.02.2017, sent through registered post informed her that she has been found to be not eligible for the Retail Outlet Dealership as there is an intersection of Jonai Road which is 6 meters wide with N.H- 52 at a distance of 200 meters from the edge of the land offered by her. The letter also informed her that if she has any grievance she may submit a representation within 10 days from the date of receipt of the letter. Immediately, on receipt of the letter on 13.02.2017, the petitioner sent a representation dated 13.02.2017 to the respondent No.2 through the registered post denying that there is such intersection of the so called Jonai Road and N.H- 52 at the distance of 200 meters from her offered land. Apprehending that her representation may not be considered in time or not at all considered, the petitioner came to this court filing this writ petition on 15.02.2017 challenging the said letter No. GDO/DS/AP/1/15, dated 03.02.2017, rejecting her application. When the petition was moved, this Court was informed that the lottery through

which the Retail Outlet Dealership was to be selected from among the short listed candidates was going to be held on 16.02.2017. After giving due consideration to the facts and circumstances of the case and the purpose for which the writ petition is filed passed the following interim order.

*“Under the attending facts and circumstances of the case, even if the petitioner subsequently succeeds in establishing his case that there is no such 6-mtr wide Jonai Road intersects NH 52, at a distance of 200 mtrs., from the edge of the land, offered by the petitioner, the instant writ petition of the petitioner would be rendered infructuous if the lottery is allowed to be held on 16.02.2017, without including the case of the present petitioner.*

*On the other hand, if the petitioner is allowed to participate in the said lottery, the balance of convenience would not be against the respondents and also neither the petitioner nor the respondents would suffer from irreparable loss.*

*However, let notice of motion be issued calling upon the respondents to show cause as to why a Rule should not be issued as prayed for; and/or why such further or other order(s) should not be passed as to this court may deem fit and proper. The notice is made returnable by 8<sup>th</sup> March, 2017.*

*In view of the interim order proposed to be passed today in this writ proceeding, the petitioner is also allowed to take steps upon the Respondents No. 1 & 2, by registered A/D post, within 2 days, from today, petitioner is also directed to take dasti service upon the said respondents with a copy of this order that the matter is again on 8<sup>th</sup> March, 2017.*

*In such view of the matter, in the interim, it is hereby directed that the case of the present petitioner be also considered in the lottery to be held on 16.02.2017 but no final decision be taken on the said lottery without the leave of this court.*

*Upon appearance of the respondents and after hearing the learned counsel appearing for the parties, this court would consider whether the interim order is required to be further continued, or not.*

*List the matter on 8<sup>th</sup> of March, 2017”.*

- 2.** Despite the above stated order, the petitioner was not allowed to participate in the lottery for final selection held on 16.02.2017. In the lottery, the respondent No.3 was selected vide result declare dated 16.02.2017 in the format of declaration of result and thereafter she was informed through a letter dated 20.06.2017 that letter of intent is being issued in her favour.
- 3.** The respondents have filed their affidavits-in-opposition and the petitioner have also filed her reply to the affidavits-in-opposition filed by the respondents, therefore, the matter was taken up for hearing at the admission stage.
- 4.** Heard Mr. R. Sonar, learned counsel for the petitioner, Mr. T. Tapak, learned counsel who appeared on behalf of the respondents No. 1 & 2 and Mr. K. Lollen, learned counsel who appeared on behalf of the respondent No. 3.
- 5.** It is submitted by the learned counsel for the petitioner, Mr. R. Sonar that the interim order passed by this Court on 15.02.2017 was taken to a hotel namely, Seren Abode at Pasighat on 16.02.2017 at 8:30 A.M. before the scheduled time for holding lottery and it was delivered to the respondent No.2 through the Resident Manager of the Hotel since the petitioner was not allowed to meet any of the functionaries of the respondents i.e. Indian Oil Company who were responsible for conducting the matter on that day. However, despite the receipt of the copy of the interim order of this court, the respondent No. 2 went ahead with the lottery ignoring the direction given in the order and thereby committed not only injustice to the petitioner but contempt of this court.
- 6.** The learned counsel also submitted that there is no road called Jonai Road which intersects with the N.H-52 within the distance of 200 meters from the land offered by the petitioner. This has been clearly stated in the writ petition and in the reply filed by the petitioner and the same is supported by a certificate issued by the Additional Deputy Commissioner, East Siang district, under whose jurisdiction the area falls. But the same has not been either refuted or denied by the respondents, therefore, the very ground on which the petitioner's application was rejected is none existent and has to be accepted as such. And in view of the same the whole selection process ought to be quashed and set aside so that the

lottery may be held afresh by allowing everyone eligible including the petitioner to participate in the lottery.

The learned counsel also further submitted that the action of the respondents No. 1 & 2 in not allowing the petitioner to participate in the lottery was arbitrary, discriminatory and illegal specially when a direction was given by this court to allow her to participate.

**7.** It is submitted by the both the learned counsel appearing for the respondents No. 1 & 2 and the respondent No. 3 that the petitioner is not eligible to participate in the lottery as she did not meet the requirements for the same and the interim order passed by this court on 15.02.2017 was also not received by the respondents No. 1 & 2, therefore, she was not allowed to participate in the lottery. It is also submitted by both the learned counsels that selection process has been completed and the respondent No.1 has issued a letter of intent, therefore, the matter has become infructuous.

**8.** I have considered the facts and circumstances submitted by the learned counsels and the argument forwarded by them. There is no dispute on the fact that the application of the petitioner was rejected by the respondents No.1 & 2 for the purported reason that her proposed site for Retail Outlet Dealership is not suitable because there was an intersection of two reads i.e. N.H-52 and Jonai Road measuring about 6 meters at the distance of 200 meters from it. This facts alleged by the respondents No.1 & 2 purportedly based on the report of the land evaluation committee has been denied by the petitioner and countered with support of a certificate issued by none other than the Additional Deputy Commissioner under whose jurisdiction the land falls. This has not been refuted or countered by the respondents by producing a more authentic or reliable document. Therefore, this court has no choice but to accept the plea of the petitioner that such road called Jonai does not exist in that area and there is no intersection of such road with the N.H-52. In fact, the land evaluation committee report based on which it is claimed to have been decided that the petitioner is not eligible is surprisingly not produced by the respondents. At the end of the hearing, it was submitted by the learned counsel of the respondents No. 1 & 2 that if required the same may be produced. It was their duty and in their own

interest to produce the same without asking of this Court if they want to substantiate their claim. Having not done so leads to their own peril.

Taking into consideration all the above, it is concluded that the respondents No. 1 & 2 have deliberately and dishonestly disqualified the petitioner and thereby committed discrimination against her in order to unduly favour the respondent. This act of the respondents is not permissible specially, since the respondent No.1 is a Government Company established for the people. It is expected of it to be fair and equitable in its functioning specially when it comes to allotting such dealership to the citizens of the Country. Functionaries of such company must not forget that they are distributing national wealth to the citizens, therefore, all their acts must not only be fair and equitable but must also seemed to have been so. But, in this case, I am afraid, the respondents seems to have fallen short of what they are expected to be.

In consequence, this court has no choice but to quash and set aside the impugned decision and the letter dated 03.02.2017, issued by the Chief Divisional Retail Sales Manager, Guwahati Divisional Office, of Indian Oil Corporation Limited, whereby the petitioner was informed that she is not qualified to join the lottery for selection of Retail Outlet Dealership to be set up at a place from Ruskin to Pasighat on NH.52, District East Siang, and the consequential orders/notifications and letter of intent issued by the respondents No. 1 & 2 in favour of the respondent No.3. Needless to say but the respondents must start the process of selection afresh.

With this, the writ petition is disposed.

**JUDGE**

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