

**IN THE GAUHATI HIGH COURT**  
**(THE HIGH COURT OF ASSAM; NAGALAND; MIZORAM AND ARUNACHAL  
PRADESH)**

**ITANAGAR PERMANENT BENCH(NAHARLAGUN)**

**1. WP(C)670(AP)2017**

**Shri Dubom Tekseng**

Village:- Simong

P.O. & P.S:-Yingkiong

Upper Siang District

Arunachal Pradesh.

Mn. No.-9485233882

*.....petitioner*

*-/o-*

**1. Indian Oil Corporation Limited,**

Represented by the Deputy Manager (Retail Sales), Indian Oil Corporation, Guwahati Divisional Office, Assam.

**2. The Chief Divisional Retail Sale Manager,**

Indian Oil Corporation, Guwahati Divisional Office, Guwahati, Assam.

*.....respondents*

By Advocates:

For the petitioners:

D. Panging

L. Perme

D. Tatak

P. Tamin

W. Sawin

T. Pabin

K. Dubey

L. Kamsi

For the respondents:

Tabit Tapak, SC(IOC)

**2. WP(C)789(AP)2017**

**Shri Dubom Tekseng**

Village:- Simong

P.O. & P.S:-Yingkiong

Upper Siang District

Arunachal Pradesh.

Mn. No.-9485233882

*.....petitioner*

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**1. The Union of India**

Represented by the Secretary, to the Government of India, Ministry of Petroleum and Natural Gas, Shastri Bhawan, New Delhi.

**2. Indian Oil Corporation Limited,**

Represented by the Deputy Manager (Retail Sales), Indian Oil Corporation, Guwahati Divisional Office, Assam.

**3. The Chief Manager (Retail Sales),**

Indian Oil Corporation Ltd., Guwahati Divisional Office, East Point Tower, 4<sup>th</sup> Floor, Bamunimaidam, Guwahati-781021, Assam.

.....**respondents.**

By Advocates:

For the petitioners: Muk Pertin  
Karyom Dabi  
Chakter Gongo  
H. Tayo  
J. Dulom  
K. Dubey  
D. Tatak  
L. Sawin  
L. Kamsi  
L. Perme

For the respondents: Marto Kato, CGC  
Tabit Tapak, SC(IOC).

**:::BEFORE:::**

**HON'BLE MR. JUSTICE AJIT BORTHAKUR**

Date of hearing : **05.02.2018.**

Date of Judgment : **05.02.2018.**

**JUDGMENT & ORDER(ORAL)**

Heard Mr. Ujjal Kumar Goswami, learned counsel for the petitioner. Also heard Mr. D. K. Sarmah, learned standing counsel, for the respondents IOCL.

**2.** The case of the petitioner, in brief, in W.P.(c)670(AP)2017 is as follows:

In the year 2014, the Indian Oil Corporation Limited through the Divisional Office, Guwahati, Assam, issued an advertisement for award of Retail Outlet Dealership for Yingkiong along Along-Yinkiong Road, Upper Siang, Arunachal Pradesh. In Draw of Lots(Lottery), dated 16.02.2017, the petitioner was declared as the winner, so the petitioner was hoping for Letter of Intent(LoI) from the respondent.

However, on 17.09.2017, the petitioner through one of the candidates came to know that Re-Draw of Lots(Lottery) is fixed on 20.09.2017. But the petitioner did not receive any notice/order from the respondent, whereby the result of Draw of Lots(Lottery), dated 16.02.2017, being cancelled by the respondent. The petitioner is also yet to receive any intimation about the Re-Draw of Lots (Lottery) personally from the respondent.

Hence, by the instant Writ petition, the petitioner has prayed to set aside and quash the Re-Draw of Lots for selection of RO dealership for Yingkiong on Along-Yinkiong Road, dated 20.09.2017, and to direct the respondent to issue Letter of Intent (LoI) to the petitioner for RO dealership for Yingkiong on Along-Yinkiong Road in terms of result of the Draw of Lots (Lottery), dated 16/02/2017.

**3.** When the said writ proceeding was pending before the Court, the instant petitioner filed the subsequent writ petition being W.P.(C)789(AP)2017, contending *inter alia*, in continuation of the earlier writ petition that on 5/10/2017, the petitioner came to know that vide Ref. No. GDO/RS/10/08, dated 29/08/2017, issued by the Chief Manager (Retail Sales) for DGM (Retail Sales), Guwahati Divisional Office, Indian Oil Corporation Limited, the petitioner's candidature for Retail Outlet Dealership had been cancelled by the respondent. Again being aggrieved by such arbitrary and malafide action on the part of the respondent, submitted a representation, dated 12/10/2017, praying for acceptance of the petitioner's candidature and in the representation also enclosed all land documents, which were rejected by the Respondent authorities vide Ref No.GDO/RS/10/08/AP, dated 16/10/2017, issued by Chief Manager (Retail Sales), Guwahati Divisional Office, Indian Oil Corporation Limited in most

arbitrary and malafide manner on flimsy and non-existent grounds. However, the petitioner again submitted another representation, dated 26/10/2017, praying for award of the RO outlet to the petitioner. But it seems that the respondent authorities are not inclined to correct their arbitrary and malafide action.

Hence, the Writ petitioner has prayed to set aside and quash the Ref. No. GDO/RS/10/08, dated 29/08/2017, and Ref No.GDO/RS/10/08/AP, dated 16/10/2017, issued by the respondents authority and further, for a direction to the respondent-authorities to issue Letter of Intent (LoI) to the petitioner for RO dealership for Yingkiong on Along-Yingkiong Road in terms of result of the Draw of Lots (Lottery), dated 16/02/2017.

4. Mr. Goswami, learned counsel for the petitioner, in support of his case, has placed his arguments before the Court, aptly, in detail, which this Court have duly taken into account.

5. Per contra, to counter the averments as made in this petition, Mr. Sarmah, learned standing counsel for the respondent- Indian Oil Corporation Ltd., has filed the affidavit-in-opposition.

6. The paragraphs relevant to this case, as averred in the affidavit-in-opposition by the respondents IOCL are quoted hereinbelow:

**5. That with regard to the statement and averments made in paragraph 4 of the writ petition the answering deponent while denying the same begs to state that the Land Evaluation Committee (LEC) evaluated the plot of land offered and shown by the petitioner on 23.11.2016. During the land evaluation, a certificate dated 28.11.2014 issued from the Office of the Deputy Commissioner; Upper Siang was shown by the petitioner, which was also attached with his application for RO Dealership. In the said certificate, it was clearly stated that the petitioner has submitted an application for issue of Land Possession Certificate (Land Possession Certificate (LPC)) before the Deputy Commissioner as he did not possessed valid land document. However, it may be stated herein that no green signal was given to the petitioner at the time of land evaluation. The LEC has evaluated the offered plot and submitted their report to the competent authority.**

**7. That with regard to the statement and averments made in paragraph 4 of the writ petition the answering deponent while denying the same begs to state that the Land Evaluation Committee (LEC) evaluated the plot of land offered and shown by the petitioner on 23.11.2016. During the land evaluation, a certificate dated 28.11.2014 issued from the Office of the Deputy Commissioner; Upper Siang was**

***shown by the petitioner, which was also attached with his application for RO Dealership. In the said certificate, it was clearly stated that the petitioner has submitted an application for issue of Land Possession Certificate (Land Possession Certificate (LPC)) before the Deputy Commissioner as he did not possessed valid land document. However, it may be stated herein that no green signal was given to the petitioner at the time of land evaluation. The LEC has evaluated the offered plot and submitted their report to the competent authority.***

***8. However, from a perusal of the statement and averments made in paragraph 7 of the writ petition the answering deponent while denying the same begs to state that at the initial stage the offered plot of land is assessed by the Land Evaluation Committee (LEC) and the Committee for FVC (Field Verification Committee) are two separate independent committees having different functions. The objective of FVC is to verify the correctness of the details given by the applicant. Therefore, after selection of the candidate, verification of credential of the applicant has to be done before issuance of the Letter Intent (LOI) as per the Dealership Selection Guideline 2014. During Field verification for credential, all the documents including land documents which are submitted with the application are to be verified with the original one.***

***As per the Dealership Selection Guidelines 2014, valid land documents, which prove the ownership of the offered plot, should be available as on the date of affidavit as per Appendix XA submitted along with the application for RO Dealership. Since the petitioner has submitted the certificate dated 28.11.2014 as land document along with the application for RO Dealership, so he was asked to produce a valid land document available as on the date of affidavit if not submitted along with the application as the certificate submitted by the petitioner as land document cannot be accepted as a proof for ownership of the land.***

***9. That with regard to the statement and averments made in paragraph 8 of the writ petition the answering deponent while denying the same begs to state that if the information given in the application by the applicant is found to be correct and no selection related complain/court case is pending for decision, Letter of Intent (LOI) will be issued to the selected candidate. In the instant case at the time of Field Verification Credential (FVC), it was found out that the land possession certificate was not there along with his application and affidavit although the same is issued by the competent authority subsequently and submitted by the petitioner that cannot be accepted as a valid document. The most vital aspect of the matter is that before issuance of LOI, valid land documents which prove the ownership of the offered plot should be available as on the date of affidavit as per Appendix XA submitted along with the application for RO Dealership. Since the petitioner failed to submit such valid land document of the offered land along with his application therefore LOI was not issued to him. Moreover as per the Dealership Selection Guidelines 2014, no document issued after the date of affidavit can be accepted by the competent authority.***

**10. That with regard to the statements and averments made in paragraph 9 & 10 of the writ petition the answering deponent while denying the same begs to state that he petitioner was intimated regarding his rejection of candidature vide letter date 29.08.2017 under Ref. No. GDO/RS/10/087. It is pertinent to mention herein that the Land Possession Certificate (LPC) which is an essential document was valid neither on the date of the affidavit submitted along with the application of the petitioner nor on the date of draw of lots. As such, the candidature of the petitioner for RO Dealership has been cancelled as being found ineligible for not having valid land documents as on the date of affidavit submitted along with the application. Moreover, as per clause 22 of the guidelines if any discrepancy is found during FVC, the candidature of the selected candidate has to be cancelled and the draw of selection from the remaining eligible candidates would be held again. "**

7. Upon hearing the rival contentions of the parties in support of their respective case, this Court is of the opinion that the moot question relevant for adjudication in this matter is as to whether the petitioner possessed valid land possession document as on the date of affidavit submitted by him along with the application for RO dealership.

8. As quoted in the foregoing paragraphs, wherein the facts in concise form of both writ petitions have been stated as well as the relevant paragraphs of the respondents - IOCL, averred in the affidavit-in-opposition and also taking into consideration, the matter in its entirety including the contents of the appended documents, this Court is of the view that though the petitioner had submitted the letter, dated 30.05.2017, written by the Deputy Commissioner, Upper Subansiri District, as Annexure, if the same is construed as a document in favour of the petitioner's claim regarding possession of land, it is abundantly and undoubtedly clear that the petitioner had failed to append this vital document, on the date of the affidavit, which is violative of the standing instructions as stipulated in the Brochure.

9. Furthermore, it also appears to be the mode adopted by the respondents – IOCL, in accordance with the Guidelines, as stipulated in the Brochure that in the initial stage, the offered plot of land was to be assessed by the Land Evaluation Committee and thereafter, by the Field Verification Committee(FVC), which are separate independent committees having varied functions. The objective of the FVC is to verify the correctness of the detail particulars furnished by the applicant including the land documents which are submitted along with

the application with the original one and after selection of the candidate, verification of credentials of the applicant has to be done before issuance of the Letter of Intent (LOI) as per the Dealership Selection Guidelines, 2014.

**10.** It is also the fact that as per the Dealership Selection Guidelines, 2014, valid land documents in support of claim of ownership of the offered plot, should be available as on the date of affidavit as per Appendix XA submitted by the applicant along with the application for RO Dealership. The land certificate, which the applicant furnished, on the date of affidavit, read as herein below extracted-

**GOVERNMENT OF ARUNACHAL PRADESH  
OFFICE OF THE DEPUTY COMMISSIONER UPPER SIANG DISTRICT  
YINGKIONG**

**No. YKLM-4/2006(Pt)**

**Dated Yingkiong, the 28<sup>th</sup> Nov' 2014**

**TO WHOM IT MAY CONCERN**

**This is to certify that Shri Dubom Tekseng s/o Shri Tahep Tekseng, a permanent resident of Simong village of Yingkiong Circle of Upper Siang District, Arunachal Pradesh has submitted an application to this office for issue of LPC against his private land measuring approximately 1200 Sqm (as per application) located at Opu area of Simong on the Yingkiong – Aalo BRTF road side 2 km away from Yingkiong town.**

**This is also to certify that the Land Possession Certificate as applied for by applicant shall be issued after completion of formalities as per Govt. instructions/guidelines for issue of LPC.**

**Sd/-  
(M. Boje) LRSO  
o/o the Deputy Commissioner  
Upper Siang District  
Yingkiong**

**11.** Since the petitioner has submitted the Land certificate, dated 28.11.2014, along with the application for RO Dealership and which cannot be accepted as a proof of ownership of the land, so he was rightfully asked to produce a valid land document available as on the date of affidavit as a proof of ownership of the land.

**12.** Be that as it may, it has been the categorical contention of the respondents - IOCL that the Land Possession Certificate (LPC), which is an essential document, was valid neither on the date of the affidavit submitted by the petitioner along with his application for RO Dealership nor, on the date of the draw of lots. To the aforesaid submission, the petitioner has not rebutted at all.

**13.** For ready reference, the relevant guidelines as enumerated in the "Brochure for Selection of Dealers for Regular & Rural Retail Outlets", dated 09.10.2014, regarding availability of land is quoted to the extent that ***the land should be available with the applicant as on the date of the affidavit*** and the same goes to consistently show that the petitioner, herein, ought to have possessed the land and/or submitted the valid land documents in support of his claim as on the date of the affidavit alongwith the application. Moreover, it is categorically highlighted that as per the Dealership Selection Guidelines, 2014, no document issued after the date of affidavit can be accepted by the competent authority.

**14.** In the light of the above discussions based on the materials made available on record, both the writ petitions lack merit and the same are accordingly **dismissed**. However, there shall be no order as to costs.

**JUDGE**

*Lipak*