

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12664 of 2023

Nitesh Kunal, aged about 30 years, Male, Prop. of M/s Kunal Petroleum, a Retail Outlet of Indian Oil Corporation Limited, Situated at Jhapaha, Minapur-Sheohar Road, Muzaffarpur and S/o Shri Ram Balak Ray, resident of Chakdhari Dheriya, P.O.-Mukshudpur, P.S.-Minapur, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. Indian Oil Corporation Limited represented through its Managing Director and Chairman, having its registered Office at G-9, Ali Yavar Jung Marg, Bandra, (East) Mumbai-400051.
2. The Executive Director, Indian Oil Corporation Limited, Bihar State Office, 5th floor, Lok Nayak Jai Prakash Bhawan, Dakbunglow Chowk, Patna-800001.
3. The General Manager, Indian Oil Corporation Limited, Bihar State Office, 5th Floor, Lok Nayak Jai Prakash Bhawan, Dakbunglow Chowk, Patna-800001.
4. The Divisional Retail Sales Head, Muzaffarpur Divisional Office, Indian Oil Corporation Limited, Krishna Complex, Akhara Ghat Road, District-Muzaffarpur.

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Neeraj Kumar Gupta, Adv.
For the Respondent/s : Mr. Sanat Kumar Mishra, Adv.

CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL JUDGMENT

Date : 25-07-2024

Heard the learned counsel for the parties.

The present writ petition has been filed for the following
reliefs:-

“(i) For quashing/ setting aside the letter bearing Ref. No. MDO/RS/NK dated 21.06.2023, whereby and where under without following the Principle of Natural Justice as well as without considering the factual matrix of the case, and on the basis of assumptions and presumptions, the Respondent no. 2 has terminated the "B" site Kisan Sewa Kendra



(KSK) in the name and style M/s Kunal Petroleum at Jhapaha, Minapur- Sheohar Road, Muzaffarpur by terminating the Dealership Agreement dated 17.12.2018 executed between the Corporation and the Petitioner and effect thereof the petitioner has cease to be the Dealer of the respondent corporation for the aforesaid "B" site KSK forthwith.

(ii) For the issuance of a writ in the nature of mandamus directing the respondents to reinstate the terminated dealership of the petitioner and consequent thereupon resume the sales and supply of the retail outlet of the Petitioner by the name and style M/s Kunal Petroleum at Jhapaha, Minapur- Sheohar Road, Muzaffarpur.

(iii) For a direction to the respondents that till the disposal of this writ petition the order of termination of dealership of the B site KSK retail outlet of the petitioner as contained in the impugned letter bearing Ref. No. MDO/RS/NK dated 21.06.2023 may be kindly stayed.

(iv) For a direction to the respondents that subsequent to the stay of the termination order during the pendency of this writ petition the sales and supply from the retail outlet of the petitioner may be resumed forthwith.

(v) For the issuance of any other appropriate writ/s, Order/s or Direction/s for which the Petitioner is found to be entitled in the facts and circumstances of this case.”



3. It is the case of the petitioner that pursuant to the advertisement dated 20.10.2015 & 21.11.2015, the petitioner has applied for the retail outlet (RO) under Kisan Seva Kendra (KSK) at Jhapaha, Muzaffarpur. That the petitioner in his application has stated that he was married as on the date of making the application and the name of his wife was shown as Sweta Roy. Thereafter, the Letter of Intent (LOI) was issued to the petitioner and dealership agreement was entered between the respondent-Corporation and the petitioner on 17.12.2018. That before the LOI was issued, he has submitted the notarized affidavit of his wife showing her name as Anjali Kumari. That the petitioner after receipt of the LOI has invested and set up the retail outlet and has been continuing to run the unit till he received a call from the Corporation seeking his clarification with regard to the name of his wife. When the petitioner was called to the office of the Corporation, he had given a sworn affidavit dated 06.09.2022 stating that name of his wife was Sweta Roy and she was also called by another name i.e., Anjali Kumari. Thereafter, the petitioner has received a show cause notice on 20.04.2023. As per the contents of the show cause notice, it is alleged that the petitioner has misled the Corporation and obtained the LOI by showing the name of his wife as Sweta Roy and that he was not married as on the date of making his



application for R.O. It is further alleged that as on the date of making application, the father of the petitioner was already having the dealership and, therefore, the petitioner was ineligible to obtain another dealership. That with a view to mislead the authorities, the petitioner has given the name of his wife as Sweta Roy but as a matter of fact he was not married as on the date of making his application. That before issuing the LOI in favour of the petitioner, the name of his wife was shown as Anjali Kumari. Further, it is stated that at no point of time before the enquiry was initiated against the petitioner, the petitioner had stated anywhere that his wife was having two names i.e., Sweta Roy alias Anjali Kumari. The petitioner has given a reply along with necessary documents, more particularly, the marriage card, transfer certificate of Anjali Kumari, school leaving certificate and also an affidavit sworn before the Executive Magistrate and also certificate from the ward member of the Gram Panchayat stating that the name of his wife was Sweta Roy alias Anjali Kumari. However, disbelieving the version given by the petitioner, the authorities have cancelled the dealership issued in favour of the petitioner. Aggrieved by the cancellation of the dealership, the present writ petition has been filed.



4. Learned counsel for the petitioner has stated that without prior verification and appreciating the documents filed i.e., the marriage card which shows the two names of his wife, the transfer certificate issued by the school where his wife has studied, the school leaving certificate showing the two names of his wife, the affidavit sworn before the Executive Magistrate and the certificate issued by the ward member of the Gram Panchayat stating that Sweta Roy & Anjali Kumari are both one and the same and both the names belong to a single person, the order of cancellation is passed. Further, it is stated that as a matter of fact, the petitioner had married on 26.05.2014 and had applied to the advertisement which was made in the newspaper on 20.10.2015. That even before the issuance of the LOI, the petitioner had submitted an affidavit of his wife stating her name as Anjali Kumari but, the authorities without proper verification based on an anonymous complaint have terminated the license of the petitioner. That prior to the termination, they have stopped the delivery of the products on 08.01.2023. Learned counsel has stated that had the documents submitted by the petitioner were properly considered, the authorities could had come to a right conclusion that his wife was having two name i.e., Sweta Roy alias Anjali Kumari but for reasons best known to them they have taken a decision to



terminate the license issued in favour of the petitioner. Further, counsel for the petitioner has stated that a reading of the show cause notice issued to the petitioner reveals that the authorities had already made up their mind to cancel the license issued in favour of the petitioner even before the issuance of the show cause notice. Learned counsel has therefore, prayed this Hon'ble Court to set aside the impugned order and direct the authorities to restore the supply and delivery of the petrol & diesel to the petitioner.

5. *Per contra*, the learned counsel appearing on behalf of the respondent-Corporation has vehemently opposed the very maintainability of the present writ petition and stated that the petitioner was not married as on the date of applying to the retail outlet but subsequently got married. That as per the rules then vogue, the petitioner was ineligible to apply as the petitioner's father was already having the R.O. dealership. That the petitioner in order to get the retail outlet in his name, declared that he was married and shown the name of his wife as Sweta Roy. That as a matter of fact, he got married subsequently and filed another affidavit showing the name of his wife as Anjali Kumari. That at no point of time, the petitioner has stated that his wife was having two names i.e., Sweta Roy & Anjali Kumari. Learned counsel has stated that as per the terms and conditions of the retail outlet and



also the advertisement issued, the authorities are well within their rights to cancel any allotment made if it is found subsequently that the license was obtained by misrepresentation and fraud. Learned counsel has stated that fraud vitiates all solemn acts and, therefore, the authorities duly taking into consideration the fact that the petitioner has played fraud in obtaining the license have rightly cancelled the license. Learned counsel has stated that the documents filed by the petitioner are all subsequent to the date of issuance of the LOI and manufactured for the purpose of escaping the consequences of submitting false affidavits and obtaining the license by fraud. Learned counsel has stated that the order passed by the authority is a well reasoned order which does not need any interference from this Hon'ble Court and prayed for dismissing the present writ petition.

6. Admittedly, in the present case, the authorities have acted on an anonymous complaint where neither the name of the complainant nor the particulars of the complainant have been furnished. The authorities came to the conclusion that the petitioner has played fraud and obtained the license by submitting wrong information and the basis for the said conclusion is on the ground that the petitioner in his application has stated that the name of his wife as Sweta Roy and before issuance of LOI he had



shown the name of his wife as Anjali Kumari. Further, in the show cause notice issued to the petitioner, it is stated that the petitioner has obtained the license only with a view to get over the embargo that as on the date of applying for the retail outlet his father was already having a license, that as per the terms and conditions of the Corporation another family member cannot get another license. The documents filed by the petitioner, more particularly, the transfer certificate, the marriage card and school leaving certificate clearly establish the fact that the wife of the petitioner is called by both the names i.e., Sweta Roy & Anjali Kumari. Though the petitioner has submitted the school leaving certificate, the transfer certificate and also the certificate of the ward member of the Gram Panchayat to substantiate his claim that his wife is called by both the names and the authorities have verified with the school and found that the certificate is genuine and correct, the authorities for reasons best known to them have disbelieved the certificate. The issuance of show cause notice on an anonymous complaint and taking action after lapse of more than six years smacks of arbitrariness. When once the certificate produced by the petitioner is found to be genuine and correct in the absence of any other concrete evidence, the authorities ought to have dropped the proceedings. In case the authorities had any other concrete proof to



show that the petitioner was married only after he had submitted his application or that the name of his wife is only Sweta Roy and she is not called by another name then they could had been justified in their actions. But in this particular case, the authorities for reasons best known to them have acted on an anonymous complaint and though, the petitioner submitted documents to substantiate his case that his wife was having two names i.e., Sweta Roy & Anjali Kumari, the same was disbelieved. In the absence of any contra evidence to disbelieve the school leaving certificate or the marriage card or the transfer certificate, the termination orders passed by the authorities has to be necessarily held as bad, illegal and contrary to the principles of law.

7. Having regard to the same, this Court is of the opinion that the wild goose chase taken by the authorities on the basis of anonymous complaint and cancelling the license of the petitioner without any evidence cannot be sustained and the same has to be depreciated. Therefore, this Court is of the opinion that the impugned order passed by the authorities has to be necessarily set aside as illegal, bad and arbitrary and consequently, direct the authorities to resume the delivery of the goods i.e., petrol, diesel etc.



8. Having regard to the above mentioned facts and circumstances, the present writ petition is allowed, the impugned order dated 21.06.2023 is set aside and the authorities are directed to resume the supplies. However, it is made clear that in case the authorities got any concrete proof to show that the petitioner was not married prior to his making the application or that the documents furnished by the petitioner are not genuine, then they are free to act strictly in accordance with law duly putting the petitioner on notice and giving him an opportunity of submitting his explanation and, thereafter, pass a reasoned order. This however, does not mean that the resumption of the goods i.e., petrol & diesel etc. can be postponed by the authorities and the same have to be resumed immediately.

9. With the above direction, the present writ petition stands allowed to the extent indicated.

(A. Abhishek Reddy, J)

Ayush/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	31.07.2024.
Transmission Date	NA

