



**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

D.B. Spl. Appl. Writ No. 438/2024

Abhishek Agrawal S/o Shri Suresh Agrawal, aged About 26 Years, resident of Ward No. 14 behind Bikaner Road across Dainik Bhaskar Office, Sri Ganganagar.

-----Appellant

Versus

1. Bharat Petroleum Corporation Limited (Bpcl), through its Chairman And Managing Director, Bharat Bhawan, 4 And 6 Currimbhoy Road, Ballard Estate, Mumbai-400 001.
2. The Senior Manager (LPG), Sales, FVC Member, Bharat Petroleum Corporation Limited, Territory Office And Bottling Plant, Spl 308, RIICO, IGC, Khara, Bikaner- 334 006, Rajasthan

-----Respondents

For Appellant(s)	:	Mr. Manoj Bhandari Sr.Advocate assisted by Mr. Aniket Tater
For Respondent(s)	:	Ms. Abhilasha Bora

**HON'BLE MR. JUSTICE SHREE CHANDRASHEKHAR
HON'BLE MR. JUSTICE KULDEEP MATHUR**

Order

16/07/2024

By the Court (Per, Hon'ble Justice Shree Chandrashekhar):-

Aggrieved by the order dated 22nd March 2024 passed in S.B. Civil Writ Petition No.2932 of 2024, the writ petitioner has filed this Special Appeal under Rule 134 of the Rajasthan High Court Rules read with Article 225 of the Constitution of India.

2. Before the writ Court, a challenge was laid by the appellant to the notice dated 28th December 2023 requiring the appellant to provide registered Power of Attorney on or before 24th May 2023 and the order dated 06th February 2024 by which the appellant



was intimated that the lease deed registered after the cut-off date, that is, after 24th May 2023 was not valid as per the guidelines for Selection of the LPG distributorship. Further prayers for a direction to the Bharat Petroleum Corporation Limited, (in short, 'BPCL') to accept his application for award of LPG distributorship and for issuing a Letter of Intent (in short, 'LOI') in his favour were also made by him. The respondent-BPCL took a stand that in terms of the 'Manual for Selection of LPG Distributorship' the land document was required to be registered on or before the last date for submission of the application. This was also an objection raised by the BPCL that the Power of Attorney was required to be compulsorily registered under section 17(1)(b) of the Registration Act, 1908 and, therefore, the lease deed which was not registered prior to the extended last date, that is, on or before 24th May 2023 could not have been accepted.

3. The writ Court did not accept the objection raised by the BPCL as to the requirement for compulsory registration of the Power of Attorney and set aside that part of the order dated 28th December 2023. However, the writ Court did not agree with the appellant that the lease deed which was executed on 23rd March 2023 shall have effect from that date notwithstanding, its registration on a subsequent date, that is, on 27th May 2023. The writ Court held as under:-

"9. It is also seen from the Clause 4 of the application for appointment of LPG Distributorship (Annexure-2) filled by the petitioner for allotment of LPG distributorship wherein the Clause 31 of the 'Manual for Selection of LPG Distributors' is reiterated regarding the condition of having a registered lease deed from the date of advertisement upto the last date of submission of application form and the petitioner filled the said application for appointment of LPG Distributorship with open eyes and was well



aware that he was not fulfilling the eligibility criteria as stipulated in the application. The petitioner despite knowing that he does not have the eligibility in light of Clause 31 of the Manual and Clause 4 of the Application participated in the process. The petitioner has also not given challenge to both the conditions mentioned in the Clause 31 of the 'Manual for Selection of LPG Distributors' and Clause 4 of the 'Application for Appointment of LPG Distributors' The Clause 4 of the application form is reproduced hereas under:-

"provide following details of the plot(s) of land for construction of LPG godown owned or having registered lease for minimum 15 years (4 years 11 months for locations falling under CNT act in Jharkhand) in the name of applicant/member of Family Unit commencing on any date from the date of advertisement up to the last date of submission of application as specified either in the advertisement or in the Corrigendum (if any) and meeting the norms specified."

20. As discussed above the lease-deed produced by the petitioner qua godown has been registered on 30.05.2023 i.e. much after the last date for receipt of the application i.e. 24.05.2023 and the lease deed qua showroom, was registered on 27.05.2023, which is also after the last date for receipt of the application thus, the decision of the respondents that the land offered by the petitioner is not meeting the eligibility conditions/requirements as stipulated in the advertisement/brochure as per the 'Manual for Selection of LPG Distributors' does not require any interference.

21. In view of above discussion, the impugned order dated 06.02.2024 (Annex.9) passed by Senior Manager, (LPG) Sales, FVC Member rejecting the petitioner's candidature on the ground that the lease deeds qua showroom and godown were registered after the last date of submitting the application form, do not call for any interference by this Court."

4. Mr. Manoj Bhandari, the learned senior counsel appearing for the appellant has raised an issue in law that it is the date of execution of a document which is relevant and not the date of registration of the said document. Referring to section 47 of the Registration Act, the learned senior counsel would submit that the lease deed which was registered on 27th May 2023 shall relate back to 23rd May 2023 when the stamp paper was purchased and the lease deed was executed by the parties by putting their signatures on the lease deed. On the other hand, Ms. Abhilasha Bora, the learned counsel appearing for the BPCL referred to the decisions of the Calcutta High Court in "Hezbul Fida Qadir V. Union



of India” reported in 2019 SCC Online Cal 721 and “Samiul Kalam V. Indian Oil Corporation Limited & Ors.” (WPA No.18525 of 2021), to support the decision of the BPCL to decline to award LPG distributorship to the appellant.

5. There seems to be no dispute on facts and it is admitted at the Bar that the lease deed in relation to the subject land offered by the appellant for allotment of the LPG distributorship at Bikaner was registered on 27th May 2023 and the rent-deed was registered on 30th May 2023; beyond the cut-off date of 24th May 2023. After the appellant submitted the land documents, he was asked to produce the registered copy of the Power of Attorneys executed by Smt. Kavita Goyal and Neelam Bansal and the registered copy of the Power of Attorney dated 10th January 2011 executed by Smt. Neelam Nagpal within 7 days. The writ Court interfered with the aforesaid requirement of producing a registered copy of the Power of Attorney but the objection taken by the BPCL was sustained before the writ Court that the lease deed/rent deed was registered after the cut-off date.

6. The Registration Act has been enacted for the purpose of consolidation of the enactments relating to the registration of documents. Under section 32 of the Registration Act, a person executing the document or claiming under the same, or, in the case of a copy of decree or order, claiming under the decree or order can present the document for registration at the proper registration office. It is further provided that the document may be presented by the representative or assignee of such a person or by the agent of such a person, representative or assignee, duly authorized by the Power of Attorney executed and authenticated



in the manner provided under the Act. Except to a limited extent where the Registering Officer can cause an inquiry under section 34, a document duly executed and properly stamped shall be registered and operate between the parties thereto. The effect of section 47 shall be of a similar nature and would have binding effect but only between the parties. Long back, in “U. On Maung V. Maung Shew Hpaung” AIR 1937 Rang 446, the learned Chief Justice observed that the requirement of registration of a document is an evidentiary requirement; an unregistered transfer is inchoate and is ineffective until registered but it nevertheless exists and when registered operates from the date of its execution. In “Gurbax Singh Vs. Kartar Singh & Ors.” (2002) 2 SCC 611, the Hon’ble Supreme Court held that a document shall have effect from the time when it was executed and not from the time of its registration and, therefore, a document which was executed prior in time shall prevail over the other executed document subsequently. In this context, we may also refer to “K.J. Nathan S. V. Maruthi Rao & Ors.” AIR 1965 SCC 430 where the Hon’ble Supreme Court elucidated the provision under section 47 of the Registration Act by way of an example of a person executing two documents with respect to the same property. The Hon’ble Supreme Court held that if two registered documents are executed by the same person in respect of the same property to two different persons at different times, the one which was executed first has priority over the other, although the former was registered subsequently to the latter.

7. The provisions under the Indian Registration Act and the Transfer of Property Act clearly indicate that a lease deed may not



be valid so long as it remains unregistered but as soon as it has been registered it takes effect from the date of its execution. This is quite a settled law that section 47 of the Registration Act operates between the parties to the deed and may also affect the rights of third parties. However, the effect of section 47 of the Registration Act cannot be stretched to obliterate the requirement of submitting a registered lease deed/rent deed on or before 24th May 2023. In "Har Narain (Dead) by Lrs. Vs. Mam Chand (Dead) by Lrs. & Ors." (2010)13 SCC 128 on which Mr. Manoj Bhandari, the learned senior Counsel for the appellant placed heavy reliance also does not provide any help to the appellant. In the said case, the sale had taken place on 02nd August 1971 and the document was registered on 03rd September 1971. The Hon'ble Supreme Court held that though the effect of registration would be that the registration would relate back to the date of execution but it shall not mean that the sale was complete prior to 03rd September 1971.

8. In the 'Manual for Selection of LPG Distributors', the expression "ownership" has been defined to mean having ownership title over the property. Alternatively, it is provided that a registered lease deed having minimum 15 years of valid lease period commencing on any date from the date of advertisement up to last date of submission of application as specified either in the advertisement or corrigendum (if any) shall be a valid document. The BPCL has taken a stand that the appellant who submitted his application after having acquainted himself with the terms and conditions for allotment of LPG distributorship cannot set up a plea that Clause 31 of the 'Manual for Selection of LPG



Distributorship' regarding registered lease deed up to the last date of submission of the application form should not be adhered to. To put it precisely, the BPCL raised a plea that the appellant must be held to have knowledge about the eligibility criteria and he cannot get out of the situation by raising a plea in law. Clause 4 of the application form for the appointment of LPG distributorship provided as under:-

"Provide following details of the plot(s) of land for construction of LPG godown or constructed LPG godown owned or having registered lease for minimum 15 years (4 years 11 months for locations falling under CNT act in Jharkhand) in the name of applicant/member of Family Unit commencing on any date from the date of advertisement up to the last date of submission of application as specified either in the advertisement or in the Corrigendum (if any) and meeting the norms specified. Note : 1. Application having registered lease deed commencing on any date prior to the date of advertisement will also be considered provided the lease is valid for a minimum period of 15 years (4 years 11 months for locations falling under CNT act in Jharkhand) from the date of advertisement. The offered land will be verified during Field Verification. In case of Durgam Kshetriya Vitrak, the location for Godown land should be within the Village / cluster of Village limits as per the advertised location. 2. In case land belongs to member of Family Unit, Applicant should have declaration by family member as per Appendix -2./2(a)."

9. In a matter like the present one, on mere submission of an application for allotment of the LPG distributorship an applicant does not acquire any vested right. This is really in public interest that the employer; in this case, Bharat Petroleum Corporation Limited, adheres to various stipulations under the advertisement dated 23rd March 2023. In "Viteralli V. Saton" [359 US 535 : Law Ed (Second series) 1012], Justice Frankfurter observed as under:

"An executive agency must be rigorously held to the standards by which it professes its action to be judged Accordingly, if dismissal from employment is based on a defined procedure, even though generous beyond the requirements that bind such agency, that procedure must be scrupulously observed This judicially evolved rule of administrative law is now firmly established and, if I may add, rightly so. He that takes the procedural sword shall perish with the sword."



10. We may also usefully refer to "Ramana Dayaram Shetty Vs. International Airport Authority" (1979) 3 SCC 489, wherein the Hon'ble Supreme Court held that an executive authority must be rigorously held to the standards by which it professes its actions to be judged and it must scrupulously observe those standards on pain of invalidation of an act in violation of them. The adherence by the BPCL to the guidelines in the "Manual for Selection of LPG Distributorship" and the stipulations under the Advertisement dated 23rd March 2023 cannot be faulted. It would be really beyond the jurisdiction of the writ Court exercising powers under Article 226 of the Constitution of India to issue a direction to the BPCL not to adhere to the guidelines and conditions under the Manual and the Advertisement. In "Nazir Ahmed Vs. King Emperor" AIR 1936 PC 253 (2), the Privy Council observed that where a power is given to do a certain thing in a certain way the thing must be done in that way or not at all. It was further held that the other methods of performance are necessarily forbidden. We do not see any valid reason to give up this salutary principle or not to apply it in the facts of the present case. The writ Court rightly held that the lease deed which was registered on 27th May 2023 could not have been considered in terms of a clear stipulation under the Advertisement which provided a deadline for submission of the application. We may also indicate that mere raising of an arguable point is not a ground for the writ Court to exercise its powers under Article 226 of the Constitution of India.

11. Having regard to the findings recorded by the writ Court and the aforementioned facts and circumstances in the case, we are



not inclined to interfere with the writ Court's judgment and,
accordingly, Special Appeal Writ No.438/2024 is dismissed.

(KULDEEP MATHUR),J

(SHREE CHANDRASHEKHAR),J

S-112-KshamaD/-

Whether fit for reporting: Yes/No

