

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).16474/2010

(From the judgement and order dated 25/03/2010 in DBCSA No. 515/2009 & SBCWP No. 2974/2007 of The HIGH COURT OF RAJASTHAN AT JAIPUR)

M/S BHARAT PETROLEUM CORP.LTD.& ANR

Petitioner(s)

VERSUS

RAMESH CHAND TRIVEDI

Respondent(s)

(With prayer for interim relief and office report )

Date: 04/10/2010 This Petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE R.V. RAVEENDRAN
HON'BLE MR. JUSTICE H.L. GOKHALE

For Petitioner(s) Mr. Gopal Subramanian, SG
Mr. Annam D.N. Rao,Adv.

For Respondent(s) Mr. M.N. Krishnamani, Sr Adv.
Mr. Amit Kumar, Adv.
Mr. Sanjay Bansal, Adv.
Mr. Ajay Choudhary,Adv.
Mr. Rambabu, Adv.

UPON hearing counsel the Court made the following
O R D E R

In terms of the signed order, we allow this appeal, set aside the order of the High Court and permit the appellants to readvertise the availability of the distributorship and proceed to make selection in accordance with law. We make it clear that the respondent will be entitled to participate against the fresh advertisement.

( Ravi P. Verma ) ( M.S. Negi )
Court Master Court Master

[Signed order is placed on the file]
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8586 OF 2010
[Arising out of SLP(C) No.16474/2010]

BHARAT PETROLEUM CORPORATION
LTD. & ANR.

.....APPELLANTS

Versus

RAMESH CHAND TRIVEDI

.....RESPONDENT

O R D E R

Leave granted. Heard.

2. The LPG distributorship at Phulera, Jaipur was advertised by the appellants. The Dealer Selection Board, ('Board', for short) interviewed 30 eligible applicants. On the basis of marks awarded by the Board, a panel of the following three eligible applicants was published in the order of merit : (i) Mr. Naveen Gupta, (ii) the respondent, and (iii) Mr. Laxmi Narain Kumawat. In pursuance of it, the distributorship was awarded to Naveen Gupta on 11.8.2001.

The distributorship of Naveen Gupta was terminated on 7.4.2007 in pursuance of the order of this Court dated 12.1.2007 wherein this Court had accepted the report of the two-Judge Committee which found that the selection process selecting Naveen Gupta for allotment was as a result of extraneous considerations.

3. The Union of India issued a directive on 17.4.2007 to issue fresh advertisement for selection of LPG distributorship wherever this Court had directed cancellation. Feeling aggrieved, the respondent herein who was at the second place in the panel prepared by the Board filed a writ petition before the Rajasthan High Court. According to him, if the dealership allotted to Naveen Gupta was vitiated, it should have been automatically given to him as he was at Sl. No.2 in the panel prepared by the Board. A

learned Single Judge of the High Court, by order dated 1.4.2009, allowed the petition by accepting the claim of the respondent and directed the appellant to consider the respondent for LPG distributorship in pursuance of the advertisement dated 31.8.2000. The special appeal filed by the appellant against the decision of the learned Single Judge was dismissed by the Division Bench by the impugned order dated 25.3.2010 which is challenged in this appeal by special leave.

4. Learned counsel for the appellants submitted that the Central Government has taken a policy decision (vide

directive dated 17.4.2007) to re-advertisement the distributorship wherever the earlier allotment was set aside in pursuance of this Court's order, and not to allot it to the next person in the panel. The said policy cannot be said to be arbitrary or unreasonable or contrary to any rules.

This Court had found that the selection process by the Board resulting in the selection of Naveen Gupta for the distributorship is illegal and vitiated due to extraneous consideration. If a comparative assessment made by a selection Board is vitiated, and the appellants decided to scrap the entire panel and readvertise the distributorship, the decision is not open to question. It cannot be contended that when the allotment in favour of the first person in the panel is set aside, the distributorship should automatically be allotted to the eligible applicant who is shown as second in the panel. Where the allotment was cancelled on account of irregularity in selection and preparation of panel, the decision to have a fresh selection instead of using the panel which was found to be vitiated, does not call for interference by courts.

5. We, therefore, allow this appeal, set aside the order of the High Court and permit the appellants to readvertise the availability of the distributorship and proceed to make selection in accordance with law. We make it clear that the respondent will be entitled to participate against the fresh advertisement.

.....J.  
( R.V. RAVEENDRAN )

New Delhi;  
October 04, 2010.

.....J.  
( H.L. GOKHALE )