

Anil Kumar Singh

v.

Chairman, Dealers Selection Board, Patna & Others

(Supreme Court Of India)

HON'BLE MR. JUSTICE S.N. VARIAVA HON'BLE MR. JUSTICE B.N. AGRAWAL

Civil Appeal No. 17373-75 Of 2002 (Arising Out Of Skps (C) No. 17373-75 Of 2002) | 03-03-2003

1. Leave granted. Heard learned counsel for the parties.

2. Briefly stated facts are, that the Dealers Selection Board selected certain candidates for appointment as agents for LPG distribution. In the select list prepared by the Selection Board, Smt Veena Rani Singh was shown as No.1 and Mr. Anil Kumar Singh was placed at No.2. Some other persons were shown below them in the select list. Accordingly, the agency was allotted to Smt Veena Rani Singh by Indian Oil Corporation.

3. Mr. Anil Kumar Singh filed a writ petition challenging the allotment of agency to Smt Veena Rani Singh on the ground that she was not a resident of Babura. This ground found favour with the learned Single Judge who allowed the writ petition. A direction was also issued that the agency should be given to the petitioner as he was No.2 in the select list.

4. Smt Veena Rani Singh filed an appeal. Pending that appeal, an agency in some other locality, was granted to her husband. Therefore, pending the appeal, Smt Veena Rani Singh incurred a further disqualification which prevented any agency to be given to her. When the appeal reached for hearing, after ascertaining that an agency was given to her husband by Bharat Petroleum Ltd., she made a statement that she would not press for an agency to be given in her favour. However, the appeal was still pressed qau the directions regarding allotment to Mr. Anil Kumar Singh.

5. The Appellate court, by the impugned judgment, set aside the directions of learned Single Judge and directed Indian Oil Corporation to issue fresh publications/notices for the purposes of allotment of agency. The appellate court directed the Dealers Selection Board to select the best candidate in accordance with the policy and law. Hence this appeal.

6. On behalf of the respondents reliance is placed on an order of this Court dated 18-11-2002 in Vinod Kumar Trehan v, Indian Oil Corpn. (Civil Appeal No.7416 of 2002, order dated 18-11-2002 (SC)) wherein on a selection being set aside this Court has directed fresh publication

for a fresh allotment. It was submitted that the impugned order is in consonance with the order of this Court and hence we should not interfere.

7. In our view, that judgment has no relevance to the facts of this case. In that case the selection was set aside on the ground of illegality and infirmities in the manner and method of assessment and award of marks. There are no such findings in this case. In this case cancellation of agency of Smt Veena Rani Singh was sought on the ground that she was not qualified.

8. This case is more in consonance with the judgment of this Court dated 23-8-1995 in *Rajbala v. Union of India* (Civil Appeal No.7718 of 1995 decided on 23-8-1995 (SC)), In that case on identical facts a three-Judge Bench has held that once the person to whom the allotment was made has become ineligible, the distributorship must be awarded to the person who is 2nd in the merit list.

9. It is, however, pointed out to us that, under the dealers selection manual if the first person in the selection list is found ineligible then the matter will be referred by the ED/JM of the oil company concerned to the Chairman of the Dealers Selection Board, who will take a decision on issuance of letter of intent to the second empanelled candidate. Indian Oil Corporation would be at liberty to follow this procedure. However, we add that the normal practice should be that unless and until there is some disqualification or special reason for not doing so, an allotment would be made by the Dealers Selection Board to the second empanelled candidate.

10. The direction in the impugned order to hold fresh selection is set aside. The appeals are accordingly allowed. There will be no order as to costs.