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2026:AHC:213205-DB

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - C No. - 19155 of 2021

Shantanu Singh

…..Petitioner(s)

Versus

State of U.P. and 2 others

…..Respondent(s)

Counsel for Petitioner(s)	:	Anand Kumar Pandey, Prabhakar Awasthi, Ramesh Kumar Yadav, Subhash Chandra Tiwari, Sudhakar Singh
Counsel for Respondent(s)	:	C.S.C., Komal Mehrotra, Krishna Agarawal

RESERVED
AFR

Court No. - 40

HON'BLE SARAL SRIVASTAVA, J.
HON'BLE SIDDHARTH NANDAN, J.

(Per: Siddharth Nandan,J.)

1. Heard learned counsel for the petitioner, Shri Krishna Agarwal learned counsel for the respondent nos.2 and 3 and learned Standing Counsel for the respondent-State.

2. The present writ petition has been filed assailing the order dated 11.03.2021 passed by respondent no.3 by way of which, the location for R.O dealership, at between Mahavir Mandir to Bhadaura stand either side on SH-99, as advertised under the open advertisement dated 25.11.2018, was cancelled.

3. The contention of the learned counsel for the petitioner is that, the respondent no.2 i.e. Hindustan Petroleum Corporation Ltd. had issued an

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open advertisement on 25.11.2018, inviting application for award of Retail Outlet dealership at between Mahavir Mandir to Bhadaura stand either side on SH-99 District Ghazipur; and the petitioner had applied and deposited an amount of Rs. 10,000/-. The respondent no.2, vide letter dated 04.02.2019 informed the petitioner regarding the result of draw of lots, wherein the petitioner was selected for the said dealership on 01.02.2019; and subsequently petitioner was asked to visit the office of respondent no.2 on 01.08.2019 and collect the Letter of Intent; whereafter an inspection was also carried out as per the norms and the requisite No- Objection Certificates, were also issued by the Public Works Department Ghazipur, Chief Fire Officer, Ghazipur and the Executive Engineer, Ghazipur and other departments. However all of a sudden, the petitioner received a letter dated 11.03.2021, by way of which he was informed that the subject location stands cancelled.

4. The contention of the learned counsel for the petitioner is that the Letter of Intent was issued to him on 02.08.2019; and Clause 3 of the said letter required that the site offered should be duly developed, up to the road level; and the petitioner was also required to construct necessary retaining wall and compound wall of 1.5 meters height. For ready reference Clause 3 of the Letter of Intent dated 02.08.2019 is reproduced below:

> *"3. As and when advised by the Corporation, the site offered by you would be duly developed up to the road level by cutting/filling (as applicable), with good earth/murrum, layer-wise compacted as per standard engineering practices. You shall also construct necessary retaining wall and compound wall of 1.5 meters height, designed as per site conditions as per approval of Corporation as committed under Clause 12 (e) of affidavit submitted by you along with application. Kindly note that in case the site as offered by you for putting up the Retail Outlet is not developed as per the advice of the Corporation, this Letter of Intent will be withdrawn without any further notice."*

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5. It is the contention of the petitioner that he had made huge investment over the property and had a legitimate claim that an agreement shall be awarded in his favour.

6. Per contra, Shri Krishna Agarawal, Advocate appearing on behalf of respondent nos. 2 and 3, placing reliance on the brochure dated 24.11.2018, submits that it contained a specific condition under the clause "General Conditions Pertaining to Advertisement" i.e. Clause 14 that the Company reserves the right to cancel/withdraw/amend the advertisement or extend the due date at its sole discretion, without assigning any reason. For ready reference Clause 14 of the "General Conditions Pertaining to Advertisement" is reproduced below:

> *"xiv. The company reserves the right to cancel/withdraw/amend this advertisement or extent the due date at its sole discretion without assigning any reason."*

7. Further he has placed reliance upon the notification dated 06.03.2018, issued under the provisions contained under Section 2 (2) of the National Highway Act, 1956; wherein at Sl. No. 480, Highway No. 134-C was declared to be a national highway, by the National Highway Authority of India. For ready reference, the relevant extract of the notification dated 06.03.2018 is reproduced below:

> *"Serial No. 480, New NH No. 124-C, the highway starting from its junctions with NH-24 near Tarighat connecting Barn in the State of Uttar Pradesh and terminating at his junction with NH-922 near Buxar in the State of Uttar Pradesh."*

8. It has been asserted on the basis of the notification dated 06.03.2018, that the location being between Mahavir Mandir to Bhadora stand either side of SH-99 District Ghazipur, became a national highway.

9. He has further contended that the publication dated 06.03.2018, was prior to the advertisement dated 25.11.2018 and as such the advertisement itself was defective; and accordingly the respondents after conducting the investigation, proceeded to pass the order dated

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11.03.2021, withdrawing the subject location, while cancelling the Advertisement.

10. Shri Krishna Agarwal, Advocate appearing on behalf of respondents has placed heavy reliance upon the decision dated 07.01.2021 passed in Writ-C No. 11465 of 2020 (Boby Singh Vs. Hindustan Petroleum Corporation Limited and 4 Others) to contend that once the 'general conditions pertaining to the advertisement' stipulates cancellation of the advertisement, by way of a sole discretion without assigning any reasons, no grievance can be raised even in case a Letter of Intent has been issued, in favour of a prospective allottee.

DISCUSSION

11. The undisputed facts in the present case are, that admittedly the location in question for which the petitioner was selected, was part of the advertisement dated 25.11.2018 and also that a Letter of Intent dated 02.08.2019, was issued in favour of the petitioner, stipulating certain compliance, on which the execution of the Agreement, was contingent.

12. The issue which requires consideration is, as to whether after the issuance of Letter of Intent, the advertisement can be cancelled or not; and, in case the advertisement can be cancelled after the issuance of the Letter of Intent, whether the respondents are liable to pay compensation, for the expenses incurred by the incumbent, while complying with the conditions mentioned in the Letter of Intent.

13. It is an admitted fact that a Letter of Intent was issued to the petitioner and he was required to meet out certain conditions, which were expressly mentioned in the Letter of Intent; and therefore it was not an option for the petitioner to first secure a permanent agreement and then to proceed with the compliance of the conditions, which were put forth by the Petroleum Company in their Letter of Intent and in fact the grant of Agreement, was contingent upon complying with such conditions.

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14. In view of the aforesaid, we may refer to Clause 3 of the Letter of Intent dated 02.08.2019 wherein the road level, constructions of necessary retaining wall and compound wall of 1.5 meters height, was required to be complied with by the petitioner. A note of caution was also there in the Letter of Intent dated 02.08.2019 that, in case the site offered is not developed, as per the advice of the Corporation, the Letter of Intent will be withdrawn without any further notice.

15. Shri Krishna Agarwal, Advocate appearing on behalf of respondent-Petroleum Company has placed reliance on the decision of the Apex Court in the cases of **Maharashtra State Electricity Distribution Company Limited (MSEDCL) and Others v. R Z Malpani**[1]**, Rajasthan Co-operative Dairy Federation Ltd. v. Shri Maha Laxmi Mingrate Marketing Service (P) Ltd. & Ors.**[2], **Dresser Rand S.A. v. Bindal Agro Chem Ltd. & Anr.**[3] and **Level 9 Biz Pvt. Ltd. v. Himachal Pradesh Housing and Urban Development Authority (HIMUDA) & Anr.**[4]**,** to contend that the Letter of Intent itself does not create a legal relationship or contractual obligations until there is a clear, unambiguous final acceptance by the parties. He submits that Letter of Intent in the ordinary course is a precursor to a contract and not a contract itself. It merely indicates a party's intention to enter into a contract with the other party in future and is not intended to bind either parties ultimately to enter into any contract; and until the offer is accepted unconditionally and the preconditions are satisfied, no binding legal relationship comes into the existence. It is but a "promise in embryo" capable of maturing into a contract only upon the satisfaction of stipulated precondition and upon the issuance of an Agreement.

16. The aforesaid proposition of law is not disputed by the respondents in any manner; but however the issue here is, as to when there is a clear and unambiguous condition put forth by the respondents, regarding the development of the land and constructions of boundary etc. and for failure of meeting out the said conditions, consequence is also

1 2026 SCC OnLine SC 553
2 1996 10 SCC 405
3 2006 (1) SC 751
4 2024 SCC OnLine SC 480

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provided i.e. the withdrawal of the Letter of Intent, this Court has to examine that even if for a valid reason the advertisement is required to be cancelled, what shall be the consequences of such a cancellation by the respondents, without there being any violation of the conditions or any fault of the incumbent, in whose favour the Letter of Intent was issued, and he has proceeded to make investments, as required in the Letter of Intent.

17. Learned counsel for the petitioner submits that the Letter of Intent further contemplated under Clause 13, a deposit of Rs. 4,50,000/- in favor the Petroleum Company towards security, at the time of issuance of appointment letter, after compliance of all the conditions/requirements of the Letter of Intent. For ready reference, Clause 13 is reproduced below:

> *"13. You will deposit with us a Demand Draft for Rs* ***4,50,000 (Rupees Four Lakh Fifty Thousand)*** *drawn on any scheduled bank in favour of Hindustan Petroleum Corporation Limited payable at Varanasi towards security Deposit (after setting of the Initial Security Deposit amount) at the time of issuance of appointment letter after compliance of all the requirements of LOI. Kindly note that the Security deposit will not carry any interest and is refundable at the time of expiry of agreement between you and the Corporation. However, if such expiry of agreement is consequent to proven adulteration/malpractice at the dealership, this amount will be forfeited. Moreover, this Corporation reserves its right to adjust this amount towards any dues to it."*

18. Thereafter Clause 15 specifically states that the allottee will be notified by the Corporation in writing, after facilities mentioned in the terms and conditions are ready for commissioning the dealership. For ready reference Clause 15 is reproduced below:

> *"15. You will be notified by the corporation, in writing, after the facilities mentioned above are made available and are ready for commissioning the dealership. Immediately on receipt of the above notice from the corporation, you shall obtain each and*

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every license necessary for operating your dealership as may be required under any central / state govt. / municipal or local authorities for the time being in force.

19. Thereafter Clause 16 also contemplates withdrawal of the offer in case the progress made by the allottee is not satisfactory. For ready reference, Clause 16 is reproduced below:

16. If we find that the progress made by you towards the above is not to our satisfaction, this offer is liable to be withdrawn."

20. The perusal of the aforesaid clauses as reproduced hereinabove, clearly provides a consequence in case the requirements as enumerated in the Letter of Intent are not met i.e. the cancellation or withdrawal of the Letter of Intent.

21. It is not disputed that Letter of Intent, cannot be construed as a "firm offer" of the dealership; but however it constitutes a 'promise' that once the conditions enumerated in the Letter of Intent are met, the Agreement shall be executed; and it is in pursuance of this 'promise and positive representation', by way of a Letter of Intent, that the petitioner has proceeded to make investments in the development of the land.

22. In view of the aforesaid, though it cannot be said that the withdrawal of the Advertisement is beyond the purview of the Petroleum Company and it could have been done as per Clause 14 of the "general conditions pertaining to advertisement", but however when consequentially the Letter of Intent stands withdrawn and the petitioner has acted upon it, making investments, while complying with the conditions enumerated in the Letter of Intent, it shall not be just for the petitioner to bear his own losses, towards the investment which he has made, in satisfying the conditions proposed in the Letter of Intent, for no fault of his own, as it is not a case of withdrawal of Letter of Intent, on breach of any condition.

23. The petitioner has also raised an argument in the backdrop of the "principle of legitimate expectation" and the constitutional guarantee against arbitrariness, as a safeguard against irrationality. The doctrine of

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legitimate expectation presupposes a clear and unambiguous representation by the State.

24. It is not disputed that the Letter of Intent cannot be construed as a "firm offer" but the 'promise' it gives is that, in case the incumbent meets the conditions enumerated in the Letter of Intent, which also entails investment at his end, the respondent-Petroleum Company will formalize the same into an Agreement and that is legitimate in the commercial sense; and accordingly, on the basis of the "principle of legitimate expectation", i.e. on account of a positive promise by the respondent-Authority, the case of the petitioner is also to be considered.

25. Shri Krishna Agarwal, Advocate appearing on behalf of respondent-Petroleum Company has relied upon the decision of the Apex Court in the case of **Sethi Auto Service Station Vs Delhi Development Authority[5],** to contend that based on mere legitimate expectation without anything more, cannot *ipso facto* give a right to invoke the said principles. For ready reference paragraph no. 32 and 33 is reproduced below:-

> *"32. An examination of the aforenoted few decisions shows that the golden thread running through all these decisions is that a case for applicability of the doctrine of legitimate expectation, now accepted in the subjective sense as part of our legal jurisprudence, arises when an administrative body by reason of a representation or by past practice or conduct aroused an expectation which it would be within its powers to fulfill unless some overriding public interest comes in the way. However, a person who bases his claim on the doctrine of legitimate expectation, in the first instance, has to satisfy that he has relied on the said representation and the denial of that expectation has worked to his detriment. The Court could interfere only if the decision taken by the authority was found to be arbitrary, unreasonable or in gross abuse of power or in violation of principles of natural justice and not taken in public interest. But a claim based on mere legitimate*

5 (2009) 1 SCC 180

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expectation without anything more cannot ipso facto give a right to invoke these principles.

33. It is well settled that the concept of legitimate expectation has no role to play where the State action is as a public policy or in the public interest unless the action taken amounts to an abuse of power. The court must not usurp the discretion of the public authority which is empowered to take the decisions under law and the court is expected to apply an objective standard which leaves to the deciding authority the full range of choice which the legislature is presumed to have intended. Even in a case where the decision is left entirely to the discretion of the deciding authority without any such legal bounds and if the decision is taken fairly and objectively, the court will not interfere on the ground of procedural fairness to a person whose interest based on legitimate expectation might be affected. Therefore, a legitimate expectation can at the most be one of the grounds which may give rise to judicial review but the granting of relief is very much limited. (Vide Hindustan Development Corpn. [(1993) 3 SCC 499)."

26. The golden rule of the doctrine of legitimate expectation is that, the statutory body on a basis of representation or its past practice or conduct, aroused an expectation that, in case the incumbent does some positive acts or comply the conditions, it shall be within its power to respond to the same, as in this case by entering into an Agreement.

27. The requirement for the applicability of the 'principles of the legitimate expectation' shall be that, relying on the representation of the statutory body and in expectation towards the fulfillment of the promise, the incumbent makes endeavor to comply with the said conditions.

28. The question here is that, once an incumbent has acted upon in furtherance of a promise, and though the executive discretion being rationale; does the principle of fairness demands that, the other party who has acted on promise, without there being any fault of his own, should be made to suffer a loss, merely because the executive discretion lies with the said Authority or he shall be entitled to be compensated?

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29. The taking out of an advertisement, with respect to a location, which has already been notified as a National Highway No. 134-C, prior to the advertisement dated 25.11.2018, cannot be a fault of the incumbent who takes part in the process of allotment and after being successful, being issued a Letter of Intent also, which requires him to make an investment in the project, and accordingly he cannot be rendered remedy-less, without there being any fault of his own, as the withdrawal of the Advertisement and consequentially the Letter of Intent, is not on account of any breach of condition.

30. It is admittedly the fault of the Authorities concerned, for issuing an advertisement which was beyond its purview and therefore the fault can only be attributed to the authorities concerned, to require the incumbent to make investment, in pursuance of the conditions enumerated in the Letter of Intent; and when after the investments have been made, it seeks to withdraw the advertisement, which also has the effect of withdrawal of the Letter of Intent and consequential loss to the incumbent, for no fault of his own, but the Petroleum Company itself, the said incumbent has to be compensated.

31. In the case of **Chairman, Railway Board and Others v. Chandrima Das (Mrs) and Others**[6]**,** the Apex Court dealt with the issue with respect to public law remedies and the award of compensation under Article 226 of Constitution of India; and laid down a ratio that the public law remedies has also been extended to the realm of Tort and the Court can award compensation to the petitioner, who suffer personal injuries, amounting to tortuous act, at the hands of officers of the Government.

32. It discarded the contention that for such a remedy, the petitioner has to approach a Civil Court and a petition under Article 226 of the Constitution, is not maintainable.

33. The Apex Court has also expanded the term 'life' while dealing with Article 21 of the Constitution of India in the case of **State of Rajasthan Vs. Vidyawati**[7], wherein it was held that Government will be

6 (2000) 2 SCC 465
7 AIR 1962 SCC 933

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vicariously liable for the tortuous act of its employees. The concept of 'just' compensation has also been developed by this Court as well as the Apex Court *vis-a-vis* the hardship that may have to be faced by an incumbent due to the involvement of a public functionary, leading to monitory loss.

34. The computation or assessment for reaching 'just' compensation is to be considered as directly proportionate to the loss suffered.

35. The petitioner is before this Court since 2021 and had proposed land as per the location advertised and having been declared successful and issued the Letter of Intent, has made investments; whereafter only due to the fault of the officer of the Petroleum Company, though it was rational to withdraw the advertisement at that stage, but in the opinion of the Court while doing so it is incumbent upon the petroleum company to consider grant of compensation, for the investments already made by the petitioner in developing the land, constructing the boundary wall, obtaining the licenses etc.

36. Apart from the aforesaid time period and the efforts made, the involvement through the process of selection and developing the land with investments, the petitioner had also lost an opportunity to pursue other profession, occupation trade or business, to earn his livelihood, which is also his fundamental right.

37. On the issue of computation of the compensation, the petitioner has contended by way of a specific averment in Para 14 of the affidavit filed along with the aforesaid writ petition that due to the impugned action of the respondents, huge financial loss was caused to the petitioner. He has also brought on record the computation of the expenses which he has incurred from 01.02.2019 to 11.03.2021 amounting to Rs.15,78,486.00; along with the photograph of the proposed location, which shows that the development made on the location in the form of land filling, boundary wall etc. The break-up of the investment, has been categorically given.

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38. The respondents in their counter affidavit had given a general reply to the aforesaid Para 14, i.e. in their Para 34; and have not denied the investment made by the petitioner. They had merely stated that he has no entitlement, which cannot be construed as a specific denial.

39. In view of the aforesaid admitted position pertaining to the investment made by the petitioner to the tune of Rs. 15,78,486.00, this Court deems it appropriate to award the compensation to the tune of Rs. 15,78,486.00, which shall be payable to the petitioner within a period of one month from the date of production of certified copy of this order; and in case the same is not paid within the said stipulated period, the petitioner shall be entitled to 8% simple interest per annum, till the date of actual payment; and accordingly in the peculiar facts of the present case, in exercise of powers under Article 226 of the Constitution of India, this Court deems it appropriate to mould the relief.

40. With the aforesaid directions/observations, the writ petition stands ***allowed***.

(Siddharth Nandan,J.) (Saral Srivastava,J.)

October 12, 2026
Sumit K./piyush