

GAHC010050592024



**THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)**

Case No. : WA/81/2024

KAMAL KOCH
S/O LATE NILAI KOCH, VILLAGE KALYANPUR WARD NO. 1 (CHARIALI
NAGAR) PO CHARIALI, MOUZA BISWANATH, PS BISWANATH CHARIALI,
DIST BISWANATH, ASSAM

VERSUS

BHARAT PETROLEUM CORPORATION LTD AND ANR
REPRESENTED BY ITS CHAIRMAN AND MANAGING DIRECTOR, MUMBAI
POST BOX NO. 19949, PETROTOWER, MUMBAI 400005

2:THE HEAD OF TERRITORY OFFICE

T.M RETAIL GUWAHATI
FIRST FLOOR
NEXIA PARK
GMCH ROAD
CHRISTIAN BASTI
GUWAHATI 78100

Advocate for the Petitioner : MR. A M BARBHUIYA

Advocate for the Respondent : MR. S S ROY(R-1,2)

Linked Case : I.A.(Civil)/785/2024

KAMAL KOCH
S/O LATE NILAI KOCH

VILLAGE KALYANPUR WARD NO. 1 (CHARIALI NAGAR) PO CHARIALI
MOUZA BISWANATH
PS BISWANATH CHARIALI
DIST BISWANATH
ASSAM

VERSUS

BHARAT PETROLEUM CORPORATION LTD AND ANR
REPRESENTED BY ITS CHAIRMAN AND MANAGING DIRECTOR
MUMBAI POST BOX NO. 19949
PETROTOWER
MUMBAI 400005

2:THE HEAD OF TERRITORY OFFICE

T.M RETAIL GUWAHATI
FIRST FLOOR
NEXIA PARK
GMCH ROAD
CHRISTIAN BASTI
GUWAHATI 781005

Advocate for : MR. A M BARBHUIYA
Advocate for : appearing for BHARAT PETROLEUM CORPORATION LTD AND
ANR

BEFORE
HONOURABLE MR. JUSTICE MANASH RANJAN PATHAK
HONOURABLE MR. JUSTICE MRIDUL KUMAR KALITA

ORDER

Date : **15-05-2024**
(M.R.Pathak, J)

- 1)** Heard Mr. A. M. Barbhuiya, learned counsel for the appellant. Also heard Mr. S. Borthakur, learned counsel appearing for the respondent Nos. 1 and 2.
- 2)** Pursuant to an advertisement dated 28.06.2023 issued by the respondent BPCL, the appellant on 30.09.2023 applied for Retail Outlet (RO)

dealership at on Rangsali Bedeti Road, District-Biswanath, erstwhile district-Sonitpur, Assam obtaining lease of 2 (two) Kathas 8 (eight) Lechas of land from one Dilip Kumar Borah, son of Ratneswar Borah, one of the co-owner, pertaining to land of Dag No. 398 out of 2 (two) Bighas 4 (four) Kathas 9 (nine) Lechas of Patta No. 83 at Village-Zamuwani, Plot No.9, Mouza-Behali under Biswanath Circle, Sub-division-Biswanath, District- Biswanath.

3) The appellant also obtained a consent letter with regard to such lease of 2 (two) Kathas 8 (eight) Lechas of land of said Dag No. 398 from four other co-owners.

4) The respondent BPCL after considering the application of the appellant for the said RO dealership rejected his application. Being aggrieved with the same, the appellant preferred a writ petition being WP(C) No. 846/2024.

5) The learned Single Judge while considering the WP(C) No. 846/2024 by order dated 21.02.2024 issued notice, but rejected the prayer for interim order on the ground that the appellant/petitioner failed to make out a *prima facie* case for grant of such interim order, where the balance of convenience is found to be in favour of the respondent BPCL authorities, since any such interim order in the said WP (C) No.846/2024 shall not only stall the due process of selection, but also prejudice the other candidates/applicants in the fray whose application(s) to be considered in the second lot of draw.

6) The learned Single Judge in its order dated 21.02.2024 also considered the fact that a patta is issued to an owner and a patta is a title deed. When admittedly the land offered is having joint pattadars, and lease deed has been executed by only one owner, such defect cannot be cured on the basis of declaration made by the other co-pattadars, in absence of any prescription under any clause of the Brochure.

7) Aggrieved by the said order dated 21.02.2024, rejecting the prayer for interim order in favour of him by the learned Single Judge in WP (C) No. 846/2024, the said writ petitioner preferred the present writ appeal.

8) Mr. Borthakur, learned counsel for the respondent, BPCL placed the criteria specified at Clause 4(vi)(a) and (m) and Appendix-III to the guidelines relating to selection of dealers for regular and rural retail outlets, through draw of lots/bidding process issued in the month of June, 2023 by the respondent authorities Bharat Petroleum along with Indian Oil and Hindustan Petroleum, which has been annexed to this memo of appeal as Annexure-3.

9) After some deliberation of the matter, Mr. A. M. Barbhuiya, learned counsel for the appellant, on instruction, prays for withdrawal of this appeal.

10) Accordingly, this appeal on being withdrawn, stands dismissed.

JUDGE

JUDGE

Comparing Assistant