

TWENTY FIRST REPORT
COMMITTEE ON PETITIONS
(FOURTEENTH LOK SABHA)
MINISTRY OF PETROLEUM AND
NATURAL GAS

(Presented to Lok Sabha on 19.12.2006)



LOK SABHA SECRETARIAT
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COMPOSITION OF THE COMMITTEE ON PETITIONS

Shri Prabhunath Singh — *Chairman*

MEMBERS

2. Shri Shingada Damodar Barku
3. Shri Nandkumar Singh Chauhan
4. Shri N.S.V. Chitthan
5. Shri Anant Gangaram Geete
6. Shri Mohan Jena
7. Shri Wangyuh W. Konyak
8. Shri C. Kuppusami
9. Adv. Suresh Kurup
10. Shri Dharmendra Pradhan
11. Kunwar Jitin Prasada
12. Shri Kishan Singh Sangwan
13. Shri Jyotiraditya M. Scindia
14. Shri Mansukhbhai Dhanjibhai Vasava
15. Shri Paras Nath Yadav

SECRETARIAT

1. Shri M. Rajagopalan Nair — *Additional Secretary*
2. Shri P. Sreedharan — *Joint Secretary*
3. Shri A.K. Singh — *Director*
4. Shri U.B.S. Negi — *Under Secretary*
5. Shri V.P. Gupta — *Committee Officer*

TWENTY FIRST REPORT OF THE COMMITTEE ON PETITIONS
(FOURTEENTH LOK SABHA)

INTRODUCTION

I, the Chairman, Committee on Petitions, having been authorised by the Committee to present the Report on their behalf, present this Twenty First Report (Fourteenth Lok Sabha) of the Committee to the House on the Action taken by the Government on the recommendations made by the Committee on Petitions (14th Lok Sabha) in their Sixteenth Report on the representations containing issues regarding alleged irregularities committed by the oil companies in awarding of dealerships/distributorships for various locations.

2. The Committee considered and adopted the draft Twenty First Report at their sitting held on 18th December, 2006.

3. The observations/recommendations of the Committee on the above matters have been included in the Report.

NEW DELHI;
18 December, 2006

27 Agrahayana, 1928 (*Saka*)

PRABHUNATH SINGH,
Chairman,
Committee on Petitions.

REPORT

ACTION TAKEN BY THE GOVERNMENT ON THE RECOMMENDATIONS MADE BY THE COMMITTEE ON PETITIONS (14TH LOK SABHA) IN THEIR SIXTEENTH REPORT ON THE REPRESENTATIONS CONTAINING ISSUES REGARDING ALLEGED IRREGULARITIES COMMITTED BY THE OIL COMPANIES IN AWARDING OF DEALERSHIPS/DISTRIBUTORSHIPS FOR VARIOUS LOCATIONS

The Committee on Petition (14th Lok Sabha) presented their Sixteenth Report to Lok Sabha on 23.08.2006 on the representations containing issues regarding alleged irregularities committed by the Oil Companies in awarding dealerships/distributorship for various locations.

2. The Committee made certain observations/recommendations in the matter and the Ministry of Petroleum and Natural Gas were requested to implement the recommendations and furnish their action taken notes for the consideration of the Committee.

3. Action Taken Notes have been received from the Ministry of Petroleum and Natural Gas in respect of all the recommendations contained in the Report. The recommendations made by the Committee and the replies thereto furnished by the Ministry are detailed in the succeeding paragraphs.

4. In paras 1.10 and 1.11 of the Report, the Committee had observed/recommended as follows: —

"1.10 The Committee note that the petitioner applied for a retail outlet dealership at Jalalpur, district Saran in response to an advertisement issued on 20.2.04 by IOCL. The petitioner alleged certain irregularities in award of dealership by IOCL. The two-member Committee investigated allegations of the petitioner in the matter. As per their findings, the land offered by the selected candidate was found suitable by the land evaluation committee but in the FIR, discrepancy in the bank account of the selected candidate was revealed. As a result thereof, the candidature of the selected candidate was cancelled and fresh process for selection of dealership was initiated.

1.11 The Committee's examination revealed that certain points contained in the petition were found correct and if the petitioner had not approached the Committee, the IOCL would have gone ahead with the award of RO dealership for which the candidate was selected irregularly. The Committee regret that the IOCL took action only after receipt of the petition. The Committee feel that there might be certain other similar cases where the IOCL did not take any action and have gone ahead with the irregular selection of dealership. This only goes to show that the selection procedure for dealership is faulty and contains lacunas or loopholes which allow irregular selection of

candidates for dealership and hence allegation from various quarters. The Committee, therefore, recommend that the Ministry and Oil companies should strive for making guidelines and parameters for selection of dealership more transparent, objective and fairness and rectify the mechanism of selection procedure so as to avoid cause of grievance raised by the candidate who failed to get dealership. However, the Committee are satisfied that the Company had taken corrective action to initiate fresh process after it was established that certain irregularity was committed in the selection of the candidate for RO dealership. In view of this, the Committee do not wish to pursue the matter further."

5. In their Action Taken reply, the Ministry of Petroleum and Natural Gas have stated as follows:—

"In view of the decision of the Hon'ble Committee not to pursue the case further, Indian Oil Corporation Limited (IOCL) is in the process of taking further action in the matter, as per their policy and procedure, for development of the retail outlet in favour of the selected candidate. For kind information of the Committee, it may be stated that IOCL had scrapped the original merit panel after investigation of the complaint and taken action against four officers found responsible for irregularities in the selection at the location 'Jalapur', District Saran. The location was re-advertised on 1.5.2005, and re-interview was conducted in 7.3.2006. The petitioner, Ms. Meena Kumari did not apply in response to the re-advertisement. In the new merit panel Smt. Hiramati Singh is the 1st empanelled candidate, in whose favour IOCL has issued LOI on 31.3.2006, the LOI-holder has taken the land on lease on 8.5.2006, and No Objection Certificate from the District Magistrate has been obtained on 3.6.2006. This RO will be commissioned after getting clearance from the National Highways Authority of India. The commissioning is likely to be in the Month of February, 2007."

"As regards Hon'ble Committee's recommendation for making the selection guidelines, etc., more transparent and objective and for rectification of the mechanism for selection of dealer, it may be stated that based on certain broad guidelines advised to them by the Government on 19th August, 2003, the public sector Oil Marketing Companies (OMCs) framed their detailed guidelines for selection of dealers/distributors of petroleum products and have been making selection/appointment of dealers/distributors accordingly. Subsequently, from time to time, the Government asked the OMCs to make their guidelines more objective and transparent and to provide wide publicity to the guidelines for information of all concerned. The OMCs have taken action accordingly. Whenever any lacuna in guidelines is noticed by the Government, action is taken to amend/modify the guidelines to remove that lacuna. Some such advices issued by the Government to the OMCs are as under:

- (i) Whenever an OMC gets direct offer of land for setting up retail outlets, they should release advertisement inviting similar offers from others and

the final selection of land/dealer will be as per their land evaluation policy/ dealer selection policy.

- (ii) For candidates eligible for benefits under the Corpus Fund Scheme, *i.e.* applicants applying for dealerships/distributorships under SC/ST category and the widows and the unmarried women above 40 years of age and without earning parents applying for dealerships/distributorships under any category, in which case no finances will be required for setting up of dealerships/distributorships, these applicants should be evaluated out of 40 marks only. That means, no evaluation should be made in respect of their capability to provide land/infrastructure (35 marks) and capability to provide finance (25 marks).
- (iii) All selection-related complaints should be disposed of in time-bound manner, before issue of LOI. OMCs should issue speaking order while disposing of the complaints, after hearing the parties concerned.
- (iv) No additional document(s) presented by the applicants after the last date for submissions of applications should be accepted.
- (v) Interview should be held within three months from the last date of receipt of applications.
- (vi) Selection of candidates should be by way of a two-stage system."

Observations/Recommendations

6. The Committee are happy to note that IOCL have taken action in the matter as per the policy and procedure, for development of the retail outlet in favour of the selected candidate. IOCL had scrapped the original merit panel after investigation of the complaint and taken action against officers found responsible for irregularities in the selection at the Jalalpur location. The location was re-advertised and candidates were re-interviewed. IOCL have since issued LOI in favour of Smt. Hiramati Singh, the 1st empanelled candidate. According to the Ministry, the RO is likely to be commissioned in February, 2007 after getting clearance from the National Highways Authority of India. The Committee trust that the RO will be commissioned by IOCL without any delay as scheduled in February, 2007.

7. The Committee also note with satisfaction that OMCs have taken certain measures to make their guidelines objective and transparent in the context of selection of dealerships/distributorships. The Committee hope that as a result of these measures, the complaints regarding alleged irregularities and malpractices committed by the Oil Companies will be reduced to the barest minimum. However, the Committee feel that there is always scope for improvement as no system could be fool proof. The Committee, therefore, recommend that the Ministry should strive to evaluate or review their guidelines/mechanism or system of selection of the candidates from time to time leaving no scope for manipulation or any kind of malpractice or irregularity and only the right and the most suitable candidate is selected for the job.

8. In paragraphs 1.16 and 1.17, the Committee had observed/recommended as follows:—

“1.16 The Committee note that the petitioner applied for award of LPG distributorship of IOCL for the location at Kahra, District Saharasa under ‘Freedom Fighter’ category in response to an advertisement on 18.02.2002. The petitioner alleged that there were irregularities in the selection of LPG distributorship and that the selected candidates were not freedom fighters at all for being eligible for the LPG distributorship under the freedom fighter quota.

1.17 The Committee observe that the petitioner had raised the doubt/question about the candidature of the selected candidates as freedom fighters. Therefore, it would be but appropriate that the Ministry of Home Affairs or the District Magistrate concerned be asked to confirm the status of the selected candidates as freedom fighters for award of distributorship under ‘Freedom Fighter’ category at Kahra. Accordingly, the Committee recommend that the matter may be pursued with them and settled at the earliest. The Committee would also like to be informed in the matter.”

9. In their reply, the Ministry of Petroleum and Natural Gas have stated as follows:—

“IOCL has reported that the candidatures of the selected candidates have been verified and it is found in order. Since 1st empanelled candidate Shri Chitra Narayan Sharma has expired, Letter of Intent (LoI) had been issued to Shri Raj Sah, 2nd empanelled candidate on 16th September 2006, as per policy.”

Observations/Recommendations

10. The Committee note that the candidature of the selected candidates have been verified and found to be in order. Since the 1st empanelled had expired LoI, had been issued to the 2nd empanelled candidate, as per policy. However, the Committee note that the Ministry have not elaborated as to whether the status of the selected candidates as freedom fighters have been duly verified from the Ministry of Home Affairs or the District Magistrate concerned as were asked and recommended by the Committee in order to consider the candidatures of selected candidates for award of distributorships under Freedom Fighters’ category at Kahra. In the absence of any such clarification, the candidature of the selected candidates remain doubtful, as being eligible for the distributorship under the ‘Freedom Fighters’ quota. The Committee, therefore, reiterate that the status of selected candidates as Freedom Fighter be confirmed from the appropriate authorities as recommended earlier before awarding distributorships under the quota. The action taken by the Ministry may be apprised of to the Committee.

11. In paragraphs 1.26 and 1.27, the Committee had observed/recommended as follows:—

“1.26 The Committee note that the petitioner applied for LPG distributorship at location Lalganj, Bihar in response to an advertisement on 02.06.1998. He was interviewed on 02.12.2003 and was empanelled second for the award of

LPG distributorship. The first empanelled candidate was Shri Neeraj Kumar. The petitioner alleged that there were irregularities in the selection of candidate and selected candidate was a benami candidate for M/s Nishad Gas Service and according to the petitioner, the selected candidate was an employee of M/s. Nishad Gas Service. The complaint was investigated by IOCL and it was found that the selection was vitiated as the selection Committee had accepted the documents at the time of interview and awarded marks for the same which were not as per norms/guidelines. The competent authority took a decision to scrap the merit panel and conduct fresh interviews of all the candidates who had appeared earlier for the interview. Meanwhile, the first empanelled candidate moved before the High Court of Patna in June, 2005. However, the Committee were informed that there were no observations, direction or order of the court in the matter.

1.27 The Committee are anguished that the case was being kept pending since June 2005 on the ostensible ground that the matter is *sub-judice* in spite of the fact that not only the Court did not issue any direction in the matter, but the case was still pending even for admission of the writ petition filed by the selected candidate. The Committee are, therefore, of the view that the case is being kept pending without any justifiable reasons. The Committee, therefore, recommend that the facts found on the basis of investigations be furnished to the Committee and IOCL should proceed with the process of selection on the basis of proposed re-interview expeditiously without further delay for award of LPG distributorship at Lalganj.”

12. In their reply, the Ministry have stated as under:—

"IOCL has reported that the LPG distributorship at Lalganj, Distt. Vaishali, Bihar was advertised on 18.02.2002 under 'open' category and interview was conducted from 1st and 3rd December, 2003. The merit panel was declared after the interviews and Shri Neeraj Kumar was placed 1st in the merit panel followed by Shri Alok Ranjan Singh as 2nd and Ms. Neetu Kumari as 3rd.

Shri Alok Ranjan Singh, the 2nd empanelled candidate and petitioner has alleged that there was irregularity in the selection of the candidate and Shri Neeraj Kumar, the 1st empanelled candidate is a benami candidate of M/s. Nishad Gas Service, Hajipur and was an employee of M/s Nishad Gas Service. The complaint was investigated by IOCL and it is found that Shri Neeraj Kumar has attached an experience certificate taken from M/s. Nishad Gas Service, Hajipur. As per policy, there is no bar on selecting a candidate working with any LPG distributorship. Moreover, marks are awarded during evaluation for experience. Investigation revealed that Shri Neeraj Kumar was working with M/s. Nishad Gas Service, Hajipur till November 2003. The allegation that Shri Neeraj Kumar is a benami candidate could not be conclusively established. However, the selection was vitiated as the Selection Committee had taken cognizance of the documents submitted at the time of interview and awarded marks for the same that is not in conformity with the policy. Accordingly, competent authority took a decision to scrap the merit panel and decided to conduct fresh interviews of all the candidates who had appeared in the earlier interview.

Shri Neeraj Kumar, 1st empanelled candidate had filed a writ petition No. CWJC No. 7462/2005 in the Hon'ble High Court of Patna for not issuing Letter of Intent. The case is listed under Serial No. 782 and yet to be admitted.

COP has recommended that IOCL should conduct the re-interview, which is in line with IOCL's policy. Accordingly, the re-interview has been planned by IOCL in the 3rd week of October, 2006."

Observations/Recommendations

13. The Committee note with satisfaction that the complaint against the 1st empanelled candidate namely Shri Neeraj Kumar that he is a benami candidate of M/s. Nishad Gas Service and that he was an employee of M/s. Nishad Gas Service, was investigated by IOCL. In their investigation, it was revealed that Shri Neeraj Kumar was working with M/s. Nishad Gas Service, Hajipur till November, 2003, but, this was not a bar, as per the policy, on selecting a candidate for distributorship. The allegation that Shri Neeraj Kumar is a benami candidate could not be conclusively established. However, the selection was vitiated as the Selection Committee had taken cognizance of the documents submitted at the time of interview and awarded marks for the same which was not in conformity with the policy. A decision had been taken by the competent authority to scrap the merit panel and to conduct a fresh interviews of all the candidates who had appeared in the earlier interview. The 1st empanelled candidate namely Shri Neeraj Kumar had filed a writ petition before the High Court of Patna for not issuing LOI but the same has yet to be admitted. The re-interview has been planned by IOCL in the 3rd week of October, 2006.

14. The Committee hope and trust that the proposed re-interview for the selection of candidate for distributorships would be strictly in accordance with the guidelines and policy of IOCL. The selection procedure will be objective and transparent leaving no scope for manipulation in the selection of the candidate or giving any cause of grievance from any quarter. The Committee hope that the right and the most suitable candidate will be selected for the job of distributor.

15. In paragraphs 1.34, 1.35 and 1.36, the Committee had recommended as follows:—

“1.34 The Committee note that one petrol pump was allotted to Shri Saroj Kumar by IOCL in Village Phulwaria, district Gopalganj, Bihar in 2002. He was also issued LOI for the same on 16.5.2002. In the meantime, a controversy arose in the media, in July-August, 2002 over irregularities in selection of dealers/distributors of petroleum products by the Dealer Selection Board (DSBs) from January, 2000 onwards. The matter was reviewed by the Government and on 09.08.2002, the Government cancelled all allotments of retail outlet dealerships, LPG distributorships and SKO-LDO dealerships made on the basis of selection by the DSBs from January, 2000 onwards. Subsequently based on litigations from the affected parties, the Supreme Court in its judgement dated 20.12.2002 quashed the Government's cancellation order dated 09.08.2002 except in respect of cases which were reported in the media. Subsequent to this judgement, the Government advised the Oil Marketing Companies (OMCs) to take further action in respect of selection made by DSBs except in the cases highlighted in the media which was referred to a two-judge committee appointed by the Supreme Court for examination. Since the RO at Phulwaria, also came under the purview of the said cancellation order dated 09.08.2002 of the Government, LOI issued to

Shri Saroj Kumar was withdrawn by the company on 14.08.2002. Further, in pursuance to the order by the Supreme Court on 20.12.2002, LOI issued to Shri Saroj Kumar was restored on 28.01.2003 and he was asked to proceed with the proposed dealership.

1.35 The Committee further note that the petitioner made a request on 24.02.2003 for change of location on the ground that M/s IBP and other companies had already set up retail outlets at that location and hence there was no further viability for a new RO. Since the policy guidelines in vogue at that time did not have any provision for change of location at LOI stage, IOCL referred the matter to the MOP&NG according to their approval. It was observed by the MOP&NG that the first empanelled candidate had not offered land within the advertised location on the date of field investigation on 24.4.2002. Therefore, according to the MOP&NG, the LOI should not have been issued to him on 16.05.2002. Even when LOI was issued to him, he could not offer land within the advertised location within the stipulated time limit of two months *i.e.* by 16.07.2002. The delay, on the part of IOCL, in withdrawing the LOI on 16.07.2002 led to unreasonable demand of the dealer-select, for resitement at LOI stage, which should not have been entertained by IOCL. The MOP&NG had advised IOCL to take appropriate action in the matter as per the guidelines to be framed by IOCL pursuant to the MOP&NG's broad guidelines dated 17.11.2005, regarding resitement of dealerships/distributorships.

1.36 The Committee observe that the dealer-select failed to offer land within the advertised location either on the date of field investigation or within the stipulated time limit of two months after issuance of LOI to him. In such circumstances, the LOI issued to the dealer-select should have been withdrawn immediately in accordance with the norms/guidelines prevalent during that period. Further, the guidelines/norms in vogue at that time did not have any provision for change of location and therefore, the demand of the dealer-select for resitement should not have been entertained by IOCL. The Committee, therefore, do not wish to pursue the matter further. However, the Committee would like that action taken in the matter by IOCL may be informed to Committee."

16. In their reply, Ministry have stated as under:—

"In view of the decision of the Hon'ble Committee not to pursue the case further, Indian Oil Corporation Limited (IOC) is in the process of taking further appropriate action in the matter. For kind information of the Committee, it may be stated that IOC has, on 25.09.2006, ordered withdrawal of LOI issued to Shri Saroj Kumar. The letter for withdrawal of LOI has been issued on 5.10.2006."

17. Meanwhile, the Committee received another representation from Shri Rakesh Kumar Singh in which he had *inter-alia* stated that four Petrol Pumps had already been opened by other oil companies at Phulwaria location. According to the petitioner,

Phulwaria is a small place and if another Petrol Pump is opened by Shri Saroj Kumar, then it would be difficult to run the same as it would not be commercially viable. The Company had also recommended that change of location would be necessary if the location remains unchanged than the company would suffer economic losses besides Shri Saroj Kumar would be deprived of any employment. The petitioner further added that the Committee had taken a decision against his application and therefore, requested that the mistake may be rectified with instruction to Ministry of Petroleum and Natural Gas to allow Shri Saroj Kumar to set up Petrol Pump at NH 28, Ranpur instead of at Phulwaria.

Observations/Recommendations

18. The Committee note that one Petrol Pump was allotted to Shri Saroj Kumar by IOCL in Village Phulwaria, Distt. Gopalganj, Bihar. He was issued LOI for the same on 16.05.2002. In the meantime a controversy arose in the media over the irregularities in the selection of dealers/distributor of petroleum products. As a result of review, the Government cancelled all allotments of dealerships/distributorships allotted on the basis of selection from January 2000 onwards. Subsequently, the matter went before the Supreme Court of India and the Court in its judgement quashed the cancellation order of the Government except in respect of cases which were reported in the media. Since the RO at Phulwaria came under the purview of the said cancellation of the Government, LOI issued to Shri Saroj Kumar was withdrawn by the Company on 14.08.2002. Subsequently, the Court removed the said restrictions and Shri Saroj Kumar was asked to proceed with the proposed dealership. However, the petitioner had made a request for change of location on the ground that certain other companies have already opened their outlets and as a result thereof, the new outlet would not be commercially viable. The Committee observed that there was no provision in the prevalent guidelines for change of location at LOI stage. Against this background, the Committee recommended that the demand of dealer select for resitement should not have been entertained by the Oil Company.

19. Notwithstanding the aforesaid observations/recommendations of the Committee, the matter has been reconsidered in the light of the another representation from the petitioner. The Committee note that the dealer- select could not proceed with the opening of the outlet at the proposed location *i.e.* at Phulwaria for the reasons including the orders of Hon'ble Supreme Court which were entirely beyond his control. During the interregnum period, other oil companies had already opened their outlets at the said location. As a result thereof the opening of another outlet at the original location would not have been commercially viable. The Committee, therefore, feel that the demand of the petitioner for change of location was certainly not without any merit or substance. Even at one stage the oil company had in fact conducted a feasibility study for an alternate location. This only goes to show that the company was prepared to allot a new site to the dealer-select namely Shri Saroj Kumar. Had there not been taken any controversy in the media or had the Government or the Court not impose any restrictions, the dealer-select would have proceeded with the setting up of retail outlet at the proposed location *i.e.* Village Phulwaria. Even after withdrawal of restriction by the Court, the request by the dealer-select was allow

to remain unsettled/pending unreasonably for more than three years. The Committee, therefore, feel that due to non-settlement of his request, the dealer-select remained unemployed and at the same time the company also suffered losses which it would have earned otherwise in the normal course but for non-opening of the outlet.

20. In view of the foregoing and after considering the whole issue in all its perspective, the Committee recommend that the demand of the dealer-select for resitement of location from Phulwaria may be considered for opening of retail outlet allotted to him and LOI issued to him for the purpose may be restored.

NEW DELHI;
18 December, 2006
27 Agrahayana, 1928 (Saka)

PRABHUNATH SINGH,
Chairman,
Committee on Petitions.

MINUTES OF THE FORTY-NINTH SITTING OF THE COMMITTEE ON PETITIONS
(FOURTEENTH LOK SABHA)

The Committee on Petitions sat on Monday, the 18th December, 2006 from 1500 hours to 1630 hours in Chairman's Room No. 45(II), Ground Floor, Parliament House, New Delhi.

PRESENT

Shri Prabhunath Singh — *Chairman*

MEMBERS

2. Shri Shingada Damodar Barku
3. Shri N.S.V. Chitthan
4. Shri Mohan Jena
5. Shri C. Kuppusami
6. Shri Dharmendra Pradhan
7. Shri Kishan Singh Sangwan
8. Shri Jyotiraditya M. Scindia

SECRETARIAT

1. Shri A.K. Singh — *Director*
2. Shri U.B.S. Negi — *Under Secretary*

2. The Committee considered the draft Twentieth, Twenty First, Twenty Second and Twenty Third Reports and adopted the same.

3. The Committee also authorised the Chairman to finalise and present the same to the House.

The Committee then adjourned.