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279

286

P-17011/7/2010-LPG
Government of India
Ministry of Petroleum & Natural Gas

Shastri Bhawan,
New Delhi, the 26 April 2015

To

O/c

The Chairman, IOC, New Delhi
The C&MD, BPCL/HPCL, Mumbai

Subject : Regarding selection guidelines

Sir,

I am directed to enclose herewith the observations of the Hon'ble MoS (I/C)-PNG for compliance and submission of Action Taken Report to the Ministry by 30.04.2015.

Yours faithfully,

Encl: As above

A. Ushabala
(A. Ushabala)
Under Secretary (LPG)
☎ 011-2338 1984

Recd
w/o
a/s
28/4/15

The Observations of the MoS are as under :

- a) Land : My observations made in the context of the grievances emanating from the dispute relating to title of ownership has been noted by the industry and has agreed to expand the scope of ownership to include other close relatives. This would definitely obviate the necessity of further litigation, as it recognize the practical difficulty in getting land mutated in different parts of the country. It will also help the OMCs expand their area of operation by expediting the process of establishment of ROs/ distributorships, both in rural and urban areas.

However, in this regard, he is of the view that the expanded definition of family members, as suggested for regular distributorships, ROs, KSKs and RGGLV should be made application to those cases :-

- i) Where Lol has not been issued to the successful candidate;
- ii) The process of allotment has not achieved closure and the selection process is still in progress

As such pending cases should be reviewed and an appropriate decision should be taken without waiting for revision of selection guidelines. The cases where the selection process has been concluded, should not, however, be disturbed.

Further, in all land matters, he feel the district administration should be the last word. In case of any doubt or ambiguity regarding the legal title of land or any other related issue associated with land, OMCs should necessarily obtain opinion of an authority, not less than the District Magistrate of the district. This should be strictly followed.

b) **Approach Road :**

The provision of putting the onus on selected candidates w.r.t. to providing an all weather motorable road will help in minimizing disgruntlement and also in reducing litigation. The provision of incorporating the right of way from the owners of the land (not owned by the candidate/ private land) is a practical and progressive step.

The change in policy should be made applicable to all pending LOIs. However, those cases where selection process has been concluded and Lol issued to the successful candidate should not be disturbed.

c) **Cooperative Banks**

The purpose of seeking bank deposits is essentially to know the solvency or credit-worthiness of the prospective candidates. Hence necessity of oversight of RBI is not a necessity in such cases. Cases of fraud and misrepresentation can be dealt with within the existing legal framework and OMCs have adequate powers to terminate the dealership/ distributorship and can take legal recourse against such banks.

Cooperative banks play an important role in the economic landscape of many states. To exclude such banks, therefore, would not be desirable and would also militate against the professed philosophy of financial inclusion, which is an avowed objective of government. This is more so in rural areas, where the reach of such banks cannot be ignored.

Hence subject to adequate safeguards for which OMCs may formulate workable guidelines, the deposits in cooperative banks are required to be taken into consideration for the selection of candidates for RO/ KSK/ regular distributorship and for RGGLV.

277

284

The above policy should be made applicable to all such cases where LOI has not so far been issued to any successful candidate. However, where selection process been concluded and LOI issued the process should not be disturbed. While taking a decision in this respect, the ratio of the decision in CWP No. 6709 of 2014-A dated 18.12.14.

d) Time Limit for concluding Field Verification Credentials:

Instances have come to his notice, where FVCs are taking a long time to conclude. There is no outer limit prescribed for the conclusion of such verification exercise. Such open endedness is not desirable. Therefore, henceforth, all FVC to be concluded within 180 days from the date of draw of lots and selection of the candidate. In case of any failure to adhere to the time limit, responsibility should be fixed on the officer concerned. Only in exceptional cases should be time limit be extended, with approval at an appropriate level to be decided by the OMC concerned.

e) Dispute Resolution Panel

He finds that the relationship between OMCs and that of the distributors/ dealers is adversarial in nature. This is essentially on account of enforcement of MDG and associated provisions of termination and other panel consequences. This is also an area of legal dispute, which has the consequences of disproportionately diverting the attention and resources of the OMCs and other stakeholders.

He is of the considered view that a Dispute Resolution Panel should immediately be constituted. The Panel should consist of:

- i) A judicial member, a judge of the rank of the High Court (serving or retired)
- ii) A retired executive member, from the ranks of the Civil Services not below the rank of Secretary to Govt. of India
- iii) A retired technical member, from OMC not below the rank of Director.

The composition as indicated above should be finalized in consultation with Ministry of Law. Depending on the workload, the number of benches can be decided in due course and in consultation with the OMCs. The terms of reference (TOR) of the proposed panel is also indicated as under:

- i) All issues pertaining to invocation of MDG/ TDG provisions, leading upto termination of dealership or distributorship/ transport contracts.
- ii) All disputes emanating from contractual obligations entered into between the OMC concerned and the dealers/ distributors, KSKs and RGGLV.
- iii) Any other issue that may be included.

Pending the constitution of such a panel, appeals pending before the EDs of OMCs concerned should not be disposed of and subsequently the appeals to be transferred to the panel. The panel should have all the powers of a Civil Court while trying a suit under the code of Civil Procedure, 1908.
