



GAHC010127282021

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

Case No. : Review.Pet./79/2021

SANATAN NATH
S/O- SHRI SARATH NATH, R/O- VILL.- RAJA MAYONG, P.O. AND P.S.
MAYONG, PIN- 782411, DIST.- MORIGAON, ASSAM

VERSUS

INDIAN OIL CORPORATION AND 2 ORS.
AOD, REP. BY THE MANAGING DIRECTOR, INDIAN OIL BHAWAN, G-9, ALI
YABAR JUNG MARG, BANDRA EAST, MUMBAI-400051.

2:THE DEPUTY GENERAL MANAGER
LPG SALES
INDANE AREA OFFICE
INDIAN OIL CORPORATION-AOD
EAST POINT TOWER
3RD FLOOR
BAMUNIMAIDAM
GUWAHATI-21.

3:JADAB BORAH
S/O- RATAN CHANDRA BORA
R/O- VILL.- HATIMURIA
SUB-DIVN- MORIGAON OF MAYONG REVENUE CIRCLE
PIN- 783411
MORIGAON
ASSA

Advocate for the Petitioner : MR. N K KALITA

Advocate for the Respondent : SC, I O C



BEFORE

HON'BLE MR. JUSTICE SANJAY KUMAR MEDHI

Date of hearing : **26.05.2022**

Date of Judgment : **03.06.2022**

JUDGMENT & ORDER

By the present application, the applicant, who was the writ petitioner in WP(C)/66/2019 has prayed for review of the order dated 02.12.2020 passed in the said writ petition. By the said order dated 02.12.2020, the aforesaid WP(C)/66/2019 was dismissed.

2. The principal ground for filing the present application for review is that while adjudicating the writ petition, fraud was played upon this Court wherein a forged document was introduced in the proceedings which was clinching in nature, as a result of which the decision which was taken in the writ petition tilted in favour of the respondent no. 3. It is the specific case of the applicant that the fraud was detected much after the judgment was rendered and thereafter the present application has been filed.

3. Before going to the issue which has arisen for determination in this case, it would be convenient to state the facts, bereft of minute details.

4. An advertisement was issued by the consortium of OIL Marketing Companies (OMC) dated 12.06.2018 for distributorship of LPG Cylinders (Domestic/Commercial). As per the guidelines concerning the eligibility of the intending bidders, the **Location** of the proposed distributorship for the present case was **Rajamayong** village in the district of Morigaon. The review applicant being eligible for grant of such distributorship had applied for the same which was to be decided by draw of lots amongst the eligible bidders who were compartmentalized in three categories on a preferential basis in which the petitioner was categorized in the first category. In the

said category, the respondent no. 3 was also empanelled and in the draw of lots, the respondent no. 3 was selected.

5. Making a specific allegation that the location offered by the respondent no. 3 was not in the Rajamayong village as required and notified in the advertisement dated 12.06.2018, the applicant had filed the aforesaid writ petition WP(C)/66/2019. The said writ petition was however dismissed by this Court vide order dated 02.12.2020 on the primary basis of a verification report dated 04.09.2018 allegedly issued by the Circle Officer, Mayong Revenue Circle wherein it has been stated that the location of the respondent no. 3 was in Rajamayong (Hatimuria Kissam).

6. As the applicant was sanguine about the fact that the location of the respondent no. 3 was not in the prescribed Rajamayong village, on further enquiry with the authorities the applicant was astonished to learn that the verification report dated 04.09.2018 which was placed before this Court at the time of adjudication was a forged one as the copy of the said verification report available in the file in the Office of the Circle Officer was not the same. It is the specific case of the applicant that the actual letter bearing no. MYC 3/2018/389 dated 04.09.2018 issued by the Circle Officer, Mayong Revenue Circle states that the plot of land shown as the location by the respondent no. 3 which is covered by Dag No. 248 of Patta No. 183 of Hatimuria Kissam under Mayong Mauza (close to Rajamayong Kissam) belongs to the respondent no. 3. The forgery done in the said letter is that instead of "Hatimuria Kissam under Mayong Mauza (close to Rajamayong Kissam)", "Rajamayong (Hatimuria Kissam) under Mayong Mauza" has been incorporated. To dispel any doubts, the applicant had also examined the jamabandi document of the respondent no. 3 with regard to the land in question and found that the land is situated at Hatimuria village and not in Rajamayong village and both the aforesaid villages are separate revenue villages. Accordingly, the present review application has been filed.

7. I have heard Shri UK Nair, learned Senior Counsel along with Shri NK Kalita,

learned counsel for the review applicant. The IOC is represented by Shri DK Sarmah, learned Standing Counsel whereas the Revenue Department, State of Assam is represented by Shri J. Handique, learned Standing Counsel. The respondent no. 3 is represented by Shri J. Patowary, learned counsel, who has also raised preliminary objections. The materials placed before this Court have been carefully examined.

8. Before considering the contentions advanced on behalf of the applicant, it is necessary to deal with the preliminary objections raised by Shri J. Patowary, the learned counsel for the respondent no. 3 on the maintainability of the review application.

9. Shri Patowary, learned counsel for the respondent no. 3, by referring to the Code of Civil Procedure, 1908 (hereinafter CPC), more particularly, with the provisions relating to review has contended that a review would be maintainable only if no appeal is preferred against the impugned judgment if such an appeal is permissible to be filed. It is submitted that though the CPC *per se* may not have an application in a writ proceeding, the spirit of the same will definitely be applicable.

It is contended that the present application has been filed without disclosing the fact that before filing of the present application, the applicant had preferred a writ appeal against the order impugned dated 02.12.2020 which was registered as WA/33/2021 and Hon'ble Division Bench of this Court vide an order dated 19.02.2021 had dismissed the appeal. It is further contended that the order of the Single Bench dated 02.12.2020 having merged with the order dated 19.02.2021 of the Hon'ble Division Bench, review if any, can be filed only with respect to the order passed by the Hon'ble Division Bench. Lastly, it is contended that the review application is not accompanied by a Certificate by the concerned advocate as required under the Gauhati High Court Rules.

In support of his submissions, Shri Patowary has relied upon the decision of this Court render in ***State of Arunachal Pradesh Vs. Nefa Udyog and Ors.*** reported in

2004 (2) GLT 724.

10. Let us first deal with the aforesaid preliminary objections raised on behalf of the respondent no. 3.

11. Though a strict construction of the provisions of the CPC may appear to be an embargo in filing a review in view of the fact that an appeal was initially filed against the order dated 02.12.2020 which was dismissed, the said contention has to be considered on the backdrop of the attending facts and circumstances and also the provision of law. Section 141 of the CPC with regard to its applicability makes it clear that the expression "proceedings" does not include any proceeding under Article 226 of the Constitution of India. For ready reference, the aforesaid Section 141 is extracted hereinbelow-

“141. Miscellaneous proceedings:- The procedure provided in this Code in regard to suit shall be followed, as far as it can be made applicable, in all proceedings in any Court of civil jurisdiction.

Explanation – In this Section, the expression "proceedings" includes proceedings under Order IX, but does not include any proceeding under Article 226 of the Constitution of India.”

12. At this juncture, it may be mentioned that this Court is not oblivious of the fact that though there may not be a strict application of the provisions of the CPC in a writ proceedings, the spirit of the same would always apply, more particularly with regard to the procedures. However, at the same time, it should not be forgotten that the order which is the subject matter of a review is an order passed in exercise of powers vested under Article 226 of the Constitution of India. Once it is clear that the power emanates from Article 226 of the Constitution of India, there cannot arise any technical barrier or hurdles in exercise of such powers. The same is a matter of discretion, which is required to be exercised judiciously by taking into consideration the attending facts and circumstances in the interest of justice and to avoid

miscarriage of justice. In that view of the matter, this Court is unable to accept the first preliminary objection and the same is accordingly rejected.

13. So far as the contention made towards the second preliminary objection namely, application of the doctrine of merger and the requirement to challenge the order of the Hon'ble Division Bench dated 19.02.2021 in WA/33/2021, the said objection cannot be countenanced on two counts. Firstly, the ground on which the review is sought for had been discovered after passing of the order by the Hon'ble Division Bench. Secondly, the Hon'ble Division Bench itself in the order dated 04.03.2022 passed in WA/336/2021 preferred by the respondent no. 3 against an order dated 22.11.2021 had directed this Court to dispose of the review petition as early as possible. In view of such clear direction passed by the Hon'ble Division Bench, the respondent no. 3 is estopped from raising the aforesaid objection. With regard to the objection based on the Certificate to be given by the learned Counsel as per the Gauhati High Court Rules, this Court is of the opinion that the said objection is a technical one and once the review is admitted for hearing and also directed by the Hon'ble Division Bench to be disposed of expeditiously, the same objection cannot play a vital role. In view of the aforesaid discussion including the existence of the order dated 04.03.2022 passed by the Hon'ble Division Bench in WA/336/2021, the case relied upon by the respondent no. 3 namely **Nefa Udyog** (supra) will not have much application.

14. Having rejected the objections regarding the maintainability of the review petition, this Court is now required to deal with the contentions made by the parties on merits.

15. Shri Nair, the learned Senior Counsel for the applicant submits that the very basis of filing the present application for review is on account of introduction of a fraudulent document in the writ proceedings which had a clinching effect on the decision of this Court. It is submitted that certain provisions of the Unified Guidelines



for selection of LPG distributors for different category including the Durgam Kshetriya Vitrak (hereinafter DKV) would be relevant in the present case. The attention of this Court has been drawn to the advertisement itself and against Sl. No. 48 the present distributorship is concerned. The location is stated to be **Rajamayong** and the Gram Panchayat is Mayong. The expression "**Location**" has been defined in Clause 1 (y) of the aforesaid guidelines which reads as follows:

“Location – In this document, word location means the area identified for setting up of new LPG Distributor. It can be a locality / village / cluster of villages / town or city which is mentioned in the Notice for Appointment of LPG Distributors.”

16. The mode of selection is laid down in Clause 7 which was by draw of lots from amongst all the eligible applications for the location. The **eligibility criteria** is laid down in **Clause 8** which includes requirement of a Godown under Clause 8(m) for which the applicant should own a plot of land of capacity, minimum dimension and location as per the advertisement. For location DKV, the candidate should own a plot of land of a minimum dimension 15 metres X 16 metres in and within the village or cluster of villages limit as per the advertised location. The reference is also made to Clause 15 regarding draw of lots wherein *inter se* priority is to be given in the following manner-

- “i. Eligible applicants, residing in the concerned Gram Panchayat of the advertised location.*
- ii. Eligible applicants, residing in the concerned Revenue sub division of the advertised location.*
- iii. Eligible applicants, not residing in the concerned Gram Panchayat or in the concerned Revenue sub division of the advertised location.”*

17. Coming back to the facts of the case, the learned Senior Counsel for the

applicant has submitted that so far as the bid of the applicant is concerned, there is no controversy or any issue involved and the only controversy has arisen on the eligibility of the bid of the respondent no. 3. It is the specific case of the applicant that the bid of the respondent no. 3 does not fulfill the basic requirement with regard to the Location. In the instant case, whereas the Location was Rajamayong, the Location of the respondent no. 3 is Hatimuria Kissam. Admittedly, both the aforesaid Hatimuria Kissam and the Rajamayong are distinct and separate revenue villages.

18. Shri Nair, the learned Senior Counsel accordingly submits that the entire order being a result of a fraudulent document introduced in the proceeding, the same is liable to be reviewed in the interest of justice. The assisting learned counsel, Shri NK Kalita has placed before this Court the following decisions in support of their submissions.

i. (1994) 1 SCC 1 (S.P. Chengalvaraya Naidu (dead) by L.Rs. Vs. Jagannath (dead) by L.Rs. and Ors.);

ii. (2003) 8 SCC 311 (Ram Preeti Yadav Vs. U.P. Board of High School and Intermediate Education and Ors.);

iii. (2007) 4 SCC 221 (A.V. Papayya Sastry & Ors. Vs. Government of A.P. & Ors.).

19. In the case of ***SP Chengalvaraya Naidu*** (supra), the Hon'ble Supreme Court has held that fraud vitiates everything. The relevant Paragraphs are extracted hereinbelow-

“5. The High Court, in our view, fell into patent error. The short question before the High Court was whether in the facts and circumstances of this case, Jagannath obtained the preliminary decree by playing fraud on the court. The High Court, however, went haywire and made observations which are wholly perverse. We do not agree with the High Court that “there is no legal duty cast upon the plaintiff to

come to court with a true case and prove it by true evidence". The principle of "finality of litigation" cannot be pressed to the extent of such an absurdity that it becomes an engine of fraud in the hands of dishonest litigants. The courts of law are meant for imparting justice between the parties. One who comes to the court, must come with clean hands. We are constrained to say that more often than not, process of the court is being abused. Property-grabbers, tax-evaders, bank-loan-dodgers and other unscrupulous persons from all walks of life find the court-process a convenient lever to retain the illegal gains indefinitely. We have no hesitation to say that a person, who's case is based on falsehood, has no right to approach the court. He can be summarily thrown out at any stage of the litigation.

6. *The facts of the present case leave no manner of doubt that Jagannath obtained the preliminary decree by playing fraud on the court. A fraud is an act of deliberate deception with the design of securing something by taking unfair advantage of another. It is a deception in order to gain by another's loss. It is a cheating intended to get an advantage. Jagannath was working as a clerk with Chunilal Sowcar. He purchased the property in the court auction on behalf of Chunilal Sowcar. He had, on his own volition, executed the registered release deed (Ex. B-15) in favour of Chunilal Sowcar regarding the property in dispute. He knew that the appellants had paid the total decretal amount to his master Chunilal Sowcar. Without disclosing all these facts, he filed the suit for the partition of the property on the ground that he had purchased the property on his own behalf and not on behalf of Chunilal Sowcar. Non-production and even non-mentioning of the release deed at the trial is tantamount to playing fraud on the court. We do not agree with the observations of the High Court that the appellants-defendants could have easily produced the certified registered copy of Ex. B-15 and non-suited the plaintiff. A litigant, who approaches the court, is bound to produce all the documents executed by him which are relevant to the litigation. If he withholds a vital document in order to gain advantage on the other side then he would be*

guilty of playing fraud on the court as well as on the opposite party.”

20. In the case of **Rampreeti Yadav** (supra), the Hon’ble Supreme Court has laid down that the sole beneficiary of fraud practiced on the Court must be presumed that he was a party to it.

21. In the case of **A.V. Papayya Sastry** (supra), the Hon’ble Supreme Court has again discussed the effect of fraud on Court proceedings. The relevant paragraph is extracted hereinbelow-

“39. The above principle, however, is subject to exception of fraud. Once it is established that the order was obtained by a successful party by practising or playing fraud, it is vitiated. Such order cannot be held legal, valid or in consonance with law. It is non-existent and non est and cannot be allowed to stand. This is the fundamental principle of law and needs no further elaboration. Therefore, it has been said that a judgment, decree or order obtained by fraud has to be treated as a nullity, whether by the court of first instance or by the final court. And it has to be treated as non est by every court, superior or inferior.”

22. On the other hand, Shri Patowary, the learned counsel for the respondent no. 3 submits that the document in question was not introduced in the proceedings by the said respondent no. 3 but by the authorities of the IOC in their affidavit and therefore, even assuming that the document is a fraudulent one, the respondent no. 3 is not a privy to it. Secondly, it is contended that the document which has been alleged to be a fraudulent one is Inter Department Communication between the IOCL and the Circle Officer and therefore the question of the same being a fraudulent document does not arise.

23. Shri Patowary, the learned counsel further goes on to submit that though two documents bearing the same number and date are on record, there is no substantial

difference in the contents of the same. It is submitted that in the document which has been alleged to be a fraudulent one, it is written that

“the land bearing Dag No. 248 and Patta No. 183 of Rajamayong (Hatimuria Kissam) under Mayong Mauza belongs to pattadar Mr. Jadav Borah”.

Whereas in the document which has been alleged to be the actual one, it has been written that

“the land bearing Dag No. 248 and Patta No. 183 of Hatimuria Kissam under Mayong Mauza (close to Rajamayong Kissam) belongs to pattadar Mr. Jadav Borah”.

24. The learned counsel for the respondent no. 3 contends that the requirement of the advertisement with regard to land being the concerned Gram Panchayat as given in Clause 15, whether the land is at Rajayamong or Hatimuria Kissam would be of little relevance as both the villages are admittedly under Mayong Gram Panchayat. The learned counsel submits that it is clear from Clause 15 of the Guidelines that the first category for draw of lots would be eligible applicants residing in the concerned Gram Panchayat of the advertised location. That being the position, it is the case of the respondent no. 3 that irrespective of the fact as to whichever document was considered, there would be no change in the decision.

25. Shri DK Sarmah, learned Standing Counsel, IOC has supported the case of the respondent no. 3 and has submitted that since both the applicant and the respondent no. 3 resides in the same Gaon Panchayat, there was no error in the methodology adopted for selecting the successful bidder.

26. Rejoining the submissions, it is submitted on behalf of the applicant that the contention advanced on behalf of the respondent no. 3 is not only fallacious but would also amount to putting stamp of approval on a fraudulent practice, the beneficiary of which is the said respondent no. 3. The applicant has vehemently objected to the contention made on behalf of the respondent no. 3 that the contents of both these

letters dated 04.09.2018 are one and the same. It is specifically pointed out that while the disputed letter has stated that the land of the respondent no. 3 is at Rajamayong (Hatimuria Kissam), the actual letter reveals that his land is at Hatimuria Kissam which is close to Rajamayong Kissam. There is no dispute that both Rajamayong and Hatimuria Kissam are distinct and separate revenue villages within the Mayong Gaon Panchayat.

27. At this stage, it may be mentioned that to put to rest the allegation and counter allegation regarding the document in question which has been alleged to be a fraudulent one, this Court would like to refer to an earlier order dated 22.11.2021 passed in the present proceedings. The said order was passed pursuant to previous directions both to the State Counsel and the Standing Counsel, Revenue Department to obtain necessary instructions on the allegation of fraud. For ready reference, the aforesaid order 22.11.2021 is extracted hereinbelow-

“Order dated 22.11.2021

Heard Shri N.K. Kalita, learned counsel for the applicant, who has filed this instant application praying for review of an order dated 02.12.2020 by which the writ petition filed by the review applicant as writ petitioner was dismissed.

The issue in the writ petition was with regard to allotment for distributorship for LPG cylinder (domestic and commercial) which was initiated vide a notice dated 12.06.2018. There was a specific requirement that the site of the distributorship should be in the location of Rajamayong village.

It is the case of the petitioner that in spite of the land of the respondent no. 3 was not in Rajamayong, he was selected on the basis of a document allegedly issued by the Circle Officer, Mayong Revenue Circle with No. MYC 3/2018/389 dated 04.09.2018. In the said document, the plot of land of the beneficiary namely Shri Jadav Borah was stated to be in Rajamayong (Hatimuria Kissam). The applicant, however, submits that the said certificate which was

introduced in the writ proceedings on behalf of the IOCL is a forged document and the actual document with identical number and date states that the aforesaid plot of land is in Hatimuria Kissam which is close to Rajamayong. It appears that not only an undue benefit has been given to the private respondent no. 3, a fraud has been played in the Court to obtain an order in favour of the respondent no. 3.

This Court vide an order dated 23.09.2021 had directed both the learned Standing Counsel, Revenue Department as well as the learned State Counsel to verify the matter. Today, both Shri J. Handique, learned Standing Counsel, Revenue and Shri S.S. Roy, learned State Counsel has come with the same instructions as per which the allegations made in the review petition has been stated to be correct.

It is a settled law that fraud vitiates everything and this Court exercising power under Article 226 of the Constitution of India, being a Court of equity, the conduct of the parties before the Court is of paramount importance.

Issue notice, returnable on 17.12.2021.

Since, the Indian Oil Corporation and its Officer (respondent nos. 1 & 2) are represented by Ms. A. Talukdar, the learned counsel, issuance of formal notice is dispensed with. However, extra copies be served upon her during the course of the day.

Steps for service of notice upon the respondent no. 3 be taken by registered post with A/D.

Since the role of the Circle Officer, Mayong Revenue Circle would be of significant importance in the interest of justice, the said officer along with the Department of Revenue, Government of Assam are impleaded in this petition, as respondents nos. 4 & 5.

Extra copies be served upon Shri J. Handique and Shri S.S. Roy, the learned Standing Counsel, Revenue and the learned State Counsel.

As this Court is prima facie satisfied that the earlier order was passed by this Court on the basis of a fraudulent document, it is directed that until further orders, no benefit accruing to the respondent no. 3 from the allotment order be afforded by the I.O.C.”

28. After hearing the parties and on perusal of the materials on record, it is clear that it is a matter of fact that a fraudulent letter was introduced in the proceedings in place of the original letter dated 04.09.2018. While a view is available in not to venture any further in view of the apparent fraud, the beneficiary of which is the respondent no. 6, this Court is of the view that to do substantial justice, the issue which has arisen should also be answered on merits. This Court is also in obeisance of the order dated 04.03.2022 passed by the Hon'ble Division Bench directing disposal of the present application.

29. Consequently, what falls for determination is as to whether the contents of both the letters dated 04.09.2018 are one and the same. While the original letter describes the land of the respondent no. 3 to be at Hatimuria Kissam, the forged letter has described the same to be in Rajamayong. As observed above, both Hatimuria Kissam and Rajamayong are distinct and separate revenue villages under the Mayong Gram Panchayat and simply by use of expression “close to Rajamayong” will not make the land of the respondent no. 3, which is the location to be at Rajamayong.

30. An argument has been made on behalf of the respondent no. 3 which is also supported by the IOC that the test is of residing in the same Gram Panchayat and the said argument is inferred from Clause 15 of the Guidelines which categorizes eligible applicants residing in the concerned Gram Panchayat of the advertised location in the first category for draw of lots.

31. The aforesaid argument is apparently fallacious inasmuch as to fall within any

of the three categories depending on the residential status, an applicant is first required to be **eligible**. In other words, only after an applicant is held to be eligible in terms of the location, the categorization will come into play which is based on the residential status. The view of the Court is fortified by a reading of the other two sub-clauses namely 15(c)(ii) and 15(c)(iii). It may be mentioned that in all the three categories, the foremost and primary requirement is to be an eligible applicant and only after that, categorization have been made depending on the residential status.

32. The Guidelines holding the field in clear terms has defined "Location" and the advertisement in question states the "Location" to be at Rajamayong. Therefore, unless the land owned by the applicant as per Clause 8(A) of the guidelines concerning locations is in or within the village or cluster of villages as per the advertised location, the applicant will not even be eligible.

33. It appears from the above that since the letter dated 04.09.2018 in its actual form had described the land of the respondent no. 3 to be at Hatimuria Kissam which is not the prescribed location, fraud was taken recourse to change the contents of the letter in such a manner that the same would benefit the respondent no. 3. As stated earlier, the fact finding exercise regarding the allegation of fraud has already been done by this Court as would be reflected by the order dated 22.11.2021 which is quoted above. Though the said order was the subject matter of challenge in WA/336/2021 preferred by the respondent no. 3, the challenge was only pertaining to the interim direction of this Court whereby the benefits to the respondent no. 3 from the said allotment was directed to be stopped. In fact, the factual clarification obtained by this Court and recorded in the order dated 22.11.2021 with regard to the fraudulent practice has not been put to challenge and has attained finality.

34. The opening lines of the judgment rendered by the Hon'ble Supreme Court in the case of **SP Chengalvaraya Naidu** (*supra*) is as follows:

"Fraud avoids all judicial acts, ecclesiastical or temporal" observed Chief Justice

Edward Coke of England about three centuries ago. It is the settled proposition of law that a judgment or decree obtained by playing fraud on the court is a nullity and non est in the eyes of law. Such a judgment/decreed — by the first court or by the highest court — has to be treated as a nullity by every court, whether superior or inferior. It can be challenged in any court even in collateral proceedings.”

35. In **Lazarus Estates Ltd. v. Beasley** reported in **(1956) 1 All ER 341**, the Court of Appeal stated the law thus:

“I cannot accede to this argument for a moment. No court in this land will allow a person to keep an advantage which he has obtained by fraud. No judgment of a court, no order of a minister, can be allowed to stand if it has been obtained by fraud. Fraud unravels everything. The court is careful not to find fraud unless it is distinctly pleaded and proved; but once it is proved it vitiates judgments, contracts and all transactions whatsoever;”

36. In view of the aforesaid facts and circumstances, this Court has no hesitation to come to a conclusion that interest of justice would be met if the order dated 02.12.2020 passed in WP(C)/66/2019 is reviewed. Accordingly, the order dated 02.12.2020 passed in WP(C)/66/2019 is reviewed and on such review the same is set aside. Consequently, the writ petition WP(C)/66/2019 stands allowed and the decision dated 30.07.2018 to select the respondent no. 3 for allotment of the LPG Distributorship for the location Rajamayong against Sl. No. 48 of the advertisement dated 12.06.2018 is set aside and quashed. The authorities are now under a duty to make a fresh assessment from the stage of draw of lots from the remaining eligible bidders strictly according to Clause 15 of the Guidelines by giving first preference to **eligible** bidders residing within the concerned Gram Panchayat.

37. Before parting, this Court would like to observe that the allegation of fraud is *prima facie* established in this proceeding by which the decision making process of this



Court was polluted. In fact, the same can be termed as a direct transgression in the dispensation of justice. Though the fraudulent document was introduced in the proceedings through an affidavit of the IOC, the ultimate beneficiary is the respondent no. 3. In that view of the matter, while allowing the review application and also the connected WP(C)/66/2019, as indicated above, this Court imposes cost of Rs.50,000/- (Rupees Fifty Thousand) each on the IOC (respondent no. 1) and the respondent no. 3. The cost is required to be deposited in the Assam State Legal Services Authority. The IOC (respondent no. 1) is however at liberty to recover the cost imposed upon it from the erring official(s).

JUDGE

Comparing Assistant