



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

PUBLIC INTEREST LITIGATION NO.93 OF 2021

PRAKASH SINGA GAVIT

VERSUS

THE UNION OF INDIA, THROUGH THE SECRETARY, MINISTRY OF
PETROLEUM AND NATURAL GAS, NEW DELHI AND OTHERS

...

Mr. R.R. Sancheti, Advocate for petitioner

Mr. Rohit Sarvadnya, Advocate h/f Mr. A.G. Tahlar, D.S.G.I. for respondent

Nos.1 to 3

Mr. A.M. Phule, AGP for respondent No.4

Mr. A.P. Bhandari, Advocate for respondent No.5

Mrs. Anjali Dube (Bajpai), Advocate for respondent No.6

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CORAM : SMT. VIBHA KANKANWADI &
AJIT B. KADETHANKAR, JJ.

DATE : 30th APRIL, 2026

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

. Present petition has been filed for issuance of writ, thereby directing respondent Nos.5 to 7 to recognize and give effect to the Scheduled Tribe (Maharashtra) Order, 1985 issued by the Hon'ble President of India while determining the reservations and thereafter while allotting the LPG

Distributorship in tribal areas and issue appropriate orders for the said purpose. The petitioner is also seeking directions against respondent Nos.5 to 7 to give equal treatment to all the tribal people residing in scheduled areas and to provide the same opportunities and benefits to them as provided for the tribal areas mentioned in the 5th Schedule of the Constitution of India. Other consequential prayers have also been made including re-advertisement of the location in the advertisement in June, 2017, whereby 200 point roster was considered for the entire State as opposed to 200 point roster considered for other tribal specific States.

2 Heard learned Advocate Mr. R.R. Sancheti for petitioner, learned Advocate Mr. Rohit Sarvadnya holding for learned DSGI Mr. A.G. Talhar for respondent Nos.1 to 3, learned AGP Mr. A.M. Phule for respondent No.4, learned Advocate Mr. A.P. Bhandari for respondent No.5 and learned Advocate Mrs. Anjali Dube for respondent No.6.

3 Learned Advocate for petitioner submits that the petitioner had approached this Court by filing Writ Petition No.14405 of 2017, which was dismissed by the Division Bench of this Court on 03.09.2021, however, while dismissing a clarification was given by the Court that the dismissal of the said petition shall not come in way of a Public Interest Litigation, if filed, and, therefore, the petitioner has filed present petition. Learned Advocate for

petitioner contends that a thorough research was conducted in respect of the said matter and the information was gathered when the petitioner had filed Writ Petition No.14405 of 2017. Various orders those were passed in the said matter show that the point raised by petitioner is legal and has valid grounds. Though in the said writ petition same reliefs were claimed; yet this Court itself had given an opportunity to petitioner to file the Public Interest Litigation. Initially in the said writ petition by order dated 13.12.2017 respondent companies were directed that they should not issue orders in respect of selected persons. Thereafter, the interim order was modified, from time to time. The point the petitioner intends to raise is that Part X of the Constitution of India provides for Scheduled and Tribal areas. The fifth Schedule to the Constitution of India makes provisions in respect of administration and control over such areas. As per Clause I of the said Schedule the State of Assam, Meghalaya, Tripura and Mizoram are kept outside the purview of the Schedule. Under Part C of fifth Schedule Hon'ble the President of India is empowered to declare any area as a Scheduled area. It is a matter of record that by presidential order dated 02.12.1985 Hon'ble President of India has passed an order by name 'The Scheduled Areas (Maharashtra) Order, 1985'. The status of scheduled area has been conferred on various parts in 13 districts of the State of Maharashtra. The declaration is *qua* various villages, Tahsils and districts located in the State. Tahsil

Navapur was erstwhile part of Dhule district, however, now it is forming part of Nandurbar district. Nandurbar district is declared as a Scheduled area as per the said order of 1985. Respondent No.1 had enacted the provisions of the Panchayats (Extension to the Scheduled Areas) Act, 1996 for providing for the extension of part IX of the Constitution to the Scheduled area. By way of 89th amendment to the Constitution on 20.09.2002 Article 338-A was inserted, whereby National Commission for Scheduled Tribes is constituted. The said commission has been saddled with various duties including to recommend measures for effective implementation and safeguard the protection, welfare and socio economic development of the Scheduled Tribes. Various review meetings take place and in one of such review meetings dated 03-05.08.2017 a recommendation was made i.e. 'Dealership of Petrol Pumps and LPG Gas agencies may be operated by only Scheduled Tribe dealer in Tribal areas'. Though the recommendation has been made, it is not yet been implemented. Respondent Nos.5 to 7 companies are also not taking any step to implement the said recommendation. Around June, 2017 respondent Oil companies published unified guidelines for selection of LPG distributors. The said guidelines were divided as Sheheri Vitarak, Rurban, Gramin Vitarak and Durgam Kshetriya Vitarak (DVK). The DVK type of distributorship consists of LPG distributorship in difficult and special areas. The guidelines further provide for 200 point roster, which means the set of serial numbers from 1 to

100 against each serial number reservation seat is allocated such that when 200 numbers of distributors are planned in the roster, the percentage reservation of each category is achieved. If the unified guidelines applied to State of Arunachal Pradesh, Meghalaya, Nagaland and Mizoram are made applicable, then the percentage would be different. The Scheduled areas inhabited by Scheduled Tribes predominantly should receive the same treatment and the facilities including the reservations. The petitioner as well as learned Advocate for petitioner has tried to demonstrate as to how the percentage with the Scheduled areas in Maharashtra would differ than the percentage that is applied to the North East region. The policy of reservation adopted by respondent Nos.5 to 7 would divide the country into two zones; out of which first zone consists of North Eastern States and the second zone would be rest of the country. This is arbitrary, illegal and unsustainable. If there is proper implementation of the presidential order, then this anomaly can be redressed.

4 Learned Advocate for petitioner has taken us through the various documents including the petition filed by petitioner on the earlier occasion i.e. Writ Petition No.14405 of 2017, the order passed in the said matter on 03.09.2021, even the earlier orders those were passed in the said matter, the Scheduled Areas (Maharashtra) Order, 1985 and the present advertisement

that came to be issued in June, 2017. Then he submits that certainly there is an anomaly and it can be seen from the advertisement. The area of reservation would change. He, therefore, advocated for allowing the matter.

5 Respondent No.6 has filed affidavit of Mr. Srinivas Pratti, Deputy General Manager, Hindustan Petroleum Corporation Limited, Aurangabad, wherein it is stated that respondent is a Government company registered under the Companies Act, 2013. The advertisements of LPG Distributorship are issued after identifying the locations, for which feasibility survey is undertaken by the competent officers of the respective oil companies. While doing so, apart from feasibility of the location, the factors which were taken into consideration are the population (household) as per the census and decadal growth to arrive at the decision to identify the location of particular village / town. The feasibility reports so prepared were subject to 200 point roster formula before releasing the advertisement for the identified locations which is approved by the MOPNG. The Oil companies formulate guidelines for the selection of distributors for all locations is advertised for appointment of LPG distributors, from time to time, under the approval of Ministry of Petroleum and Natural Gas (MOPNG). The petitioner had also filed and exhausted his remedy by filing Writ Petition No.14405 of 2017. It came to be dismissed and now the same point has been agitated. The petitioner is also a

beneficiary of such scheme of the Government and now he intends to challenge the said system through which he has already received the benefits. The petitioner cannot be allowed to blow hot and cold at the same time. Running of Distributorship is a commercial transaction for which the distributors are paid in the form of commission. The beneficiary of the petroleum products is the public at large. The advertisement that was published in June, 2017 was 'that unified guidelines of selection of LPG distributors, June, 2017'. The locations were advertised on 30.08.2017 inviting applications. Petitioner's attempt to challenge those rules by applying the provisions of PESA Act which is enacted to provide the extension of provisions of Part IX of Constitution of India, relating to the Panchayats to the Scheduled areas, appears to be totally misconceived. State legislation has intended to extend the provisions relating to Panchayats to the Scheduled areas in consonance with their customary law, social and religious practices as well as traditional management practices of community resources. The purpose for which PESA Act was enacted is different and, therefore, same percentage cannot be made applicable in the present case. Parawise reply has been given by the said authority to object the petition. Further, it is stated that unified guidelines have been formulated, taking into consideration the overall percentage of reservation decided for various categories and States, specifically based on the percentage of population

under each category for each State. The purpose of advertising new locations for LPG distributorship under DKV category was to reach out to the rural areas in the remote part of the State and provide LPG in those remotest areas for health and environmental reasons.

6 Affidavit-in-reply has been given by Mr. Chetan Patwari s/o Krishan Patwari, the Divisional LPG Sales Head, Aurangabad, Indane Divisional Office for respondent No.5. He reiterates the same facts and takes objection to the petition by stating that the petition has been filed under misconception and PESA Act cannot be made applicable to the unified guidelines.

7 All the respective Advocates representing respondent Nos.1 to 6 submit that now as regards advertisement which was given in June, 2017 almost the entire procedure is complete and they have specifically submitted that in the order passed by this Court on 21.09.2021 a statement was made that petitioner is not claiming any personal interest, however, it has been suppressed by petitioner that he is the recipient of the benefit given under the scheme. Notices came to be issued by order dated 12.10.2021, wherein it was submitted on behalf of petitioner that petitioner is assailing the reservation provided under the brochure on unified guidelines for selection of LPG distributors. In the State of Maharashtra there are scheduled areas

wherein the reservations for Scheduled Tribe ought to be provided 50%. Similar reservation is provided in the State of Arunachal Pradesh, Meghalaya, Nagaland and Mizoram. The same ought to have been applied to the scheduled areas in the State of Maharashtra. In fact, the guidelines would be given by the companies separately each year and, therefore, for the challenge to the unified guidelines for selection of LPG distributorship of June, 2017 the cause of action is not surviving as on today.

8 Here, first and the foremost fact is that the guidelines which are under challenge before this Court in the present petition are the unified guidelines for selection of LPG distributors Sheheri Vitarak, Rurban, Gramin Vitarak and Durgam Kshetriya Vitarak issued in June, 2017. The earlier writ petition filed by present petitioner to challenge the same guidelines i.e. Writ Petition No.14405 of 2017 was dismissed on 03.09.2021 by the Judgment i.e. a reasoned Judgment and thereafter the present Public Interest Litigation came to be filed on 04.09.2021 i.e. on the next day itself of the dismissal of his earlier writ petition by taking advantage of observations in paragraph No.23. We reproduce paragraph No.23 for the convenience :

“23. We, however, find it appropriate to record that the dismissal of this petition would not mean that a Public Interest Litigation Petition would be shut out if filed by a person in public interest and which satisfies the prescribed requirements

of law as are laid down in the Bombay High Court Public Interest Litigation Rules, 2010.”

It was observed that the said writ petition which was not in the nature of public interest had failed to show any legal injury suffered by petitioner and does not espouse a personal cause. Even after the dismissal of the writ petition it appears that learned Advocate for petitioner prayed for continuation of interim relief, which was then opposed and by the same order the Division Bench of this Court observed that they were not inclined to continue the interim relief and, therefore, it was then rejected. The first order in this matter came to be passed on 21.09.2021, however, at that time also no interim relief was given. The petitioner was asked to deposit amount of Rs.75,000/- to show his *bona fides* as per Rule 7-A of the Bombay High Court Public Interest Litigation Rules, 2010. Thereafter also the matter was on board on 12.10.2021, on which day the notices came to be issued to respondents. Thereafter, till 02.04.2026 the matter was never got circulated by petitioner. That means, for about 5½ years the petitioner kept quiet, though he intended to raise a public interest. This fact itself is required to be taken against petitioner. If he had really the intention to raise the issue as a Public Interest Litigation after the dismissal of his writ petition which was in the private interest that is his own interest, the petitioner ought to have been vigilant.

9 Perusal of the Judgment in Writ Petition No.14405 of 2017 dated 03.09.2021 would show that all the earlier interim orders were considered by this Court, wherein itself in order dated 14.12.2018, note was taken that at various locations the distributorship has been allotted and it is to the Scheduled Tribes category persons. It was then clarified that the earlier interim order dated 13.12.2017 will not come in the way of Petroleum Companies to proceed further in the matter. Therefore, as per the orders dated 11.12.2018 and 14.12.2018 it appears that this Court had relaxed the injunction granted earlier and permitted the appointment of LPG distributorship of few more locations. Even at that time the learned Advocate appearing for Petroleum Companies submitted that petitions at that time were then rendered purely for an academic purpose, as the petitioner was not seeking any relief for himself. Thereafter, all the contentions by petitioner and Petroleum Companies were heard and noted by this Court and taking into consideration the earlier other decisions of this Court observations have been made that the Petroleum Companies are providing essential commodities to the rural masses at their doorsteps and such policy, which is in the larger public interest for rural population, should not be stalled on the grounds canvassed by the petitioners since they have no legal right to seek prohibition against the petroleum companies to appoint new distributors. Of course, then by way of paragraph No.23 the liberty of filing a Public Interest

Litigation was given to petitioner; yet, the other observations by this Court would then be binding on petitioner. It has been observed that the Petroleum Companies have announced that the applicants belonging to the Scheduled Tribe category would be given preference considering the needs of the tribals in such areas and thereupon various persons from Scheduled Tribes had come forward and participated in the advertisement. Now, whether to consider the contention of petitioner only for academic purposes is required to be considered.

10 Learned Advocate for petitioner is relying on the Scheduled Areas (Maharashtra) Order, 1985. The areas were declared as Scheduled areas in the exercise of powers conferred by sub paragraph (2) of paragraph (6) of 5th Schedule to the Constitution of India. No doubt, the Tahsildar of Navapur then from Dhule district now in Nandurbar district was declared as Scheduled area. The petitioner submits that these areas should be considered *at par* with the States of Meghalaya, Arunachal Pradesh, Mizoram and Nagaland. As per the unified guidelines of June, 2017, except from these four States all other States' reservation was given for the open category 50.5 % Scheduled Caste / Scheduled Tribes (SC / ST) 22.5% and other backward classes (OBC) 27.0%. Class V of the guidelines relates to rostering of locations. Sub Clause (c) states that "The '200 point roster' will be followed

on rolling basis. Within a State, the distribution of locations reserved for SC or ST will be based on the ratio of population of SC & ST of the State.” Sub Clause (d) provides – “There will be separate ‘200’ point rosters maintained on All India basis at Head Officer of IOCL-one combined roster for “Sheheri Vitarak and Rurban Vitarak”, one for Gramin Vitarak and one for Durgam Kshetriya Vitarak.” Sub Clause (e) provides that “For the State of Arunachal Pradesh, Meghalaya, Nagaland and Mizoram, 100 point roster shall be prepared and same will be maintained at Indian Oil Corporation AOD State Office, Guwahati. The roster serial number under Unified Guidelines for Selection of Distributors will start from serial number 1.”

11 Thus, it can be seen that the unified policy states that the reservation for SC and ST will be based on ratio of population of SC and ST of the State. In the entire petition, the petitioner has not stated that there are no persons from SC category in Navapur area. When the policy is roughly done on the basis of population ratio, then it cannot be stated that it is contrary or violative of the provisions of the Constitution of India. Secondly, as aforesaid, already the entire allocation of the points appears to have been done under June, 2017 policy. There is no necessity to take cognizance of the matter further. Secondly, on the point of delay also that is not persuading the matter for about 5½ years, we do not find any merit in the present petition

now with a statement that there is change in the policy now. Hence, the petition stands **dismissed**. The amount of Rs.75,000/- deposited by the petitioner to show his *bona fides* be credited to the High Court Legal Services Sub Committee, Aurangabad.

(AJIT B. KADETHANKAR, J.)

(SMT. VIBHA KANKANWADI, J.)

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