

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5109 OF 2005

Smt. Sunita W/o Premchand Khivasara .. Petitioner

Versus

The Union of India and others .. Respondents

Shri S. P. Shah, Advocate for the Petitioner.

Shri S. B. Deshpande, Assistant Solicitor General for the
Respondent No. 1.

Mrs Anjali Dube (Bajpai), Advocate for Respondent Nos. 2 to 4.

Shri P. P. Chavan, Advocate for the Respondent No. 5.

**CORAM : S. V. GANGAPURWALA AND
A. I. S. CHEEMA, JJ.**

DATE : 26TH MARCH, 2015.

PER COURT :

. Mr. Shah, the learned counsel submits that, the petitioner had applied for grant of dealership at Chalisgaon, Dist. Jalgaon to respondent Nos. 2 to 4 pursuant to an advertisement given by respondent Nos. 2 to 4. The learned counsel submits that, the petitioner was empaneled at Sr. No. 1 in the list. According to the learned counsel the respondent No. 5 was empaneled at Sr. No. 2, however, letter of intent has been issued to the respondent No. 5. On making enquiry, it was suggested that on the basis of some complaint an enquiry is made, whereby on the ground that the petitioner's income is more than Rs. Two Lacs, the letter of

intent is issued to the respondent No. 5. The learned counsel submits that, said action is arbitrary and without giving any opportunity to the petitioner. The order passed is without assigning any reasons. According to the learned counsel, the petitioner was never intimated about any investigation being made, nor any details were called from the petitioner. Behind the back of the petitioner investigation is said to be made and on the basis of vague statement that income of the petitioner is more than Rs. Two Lacs, the case of the respondent No. 5 is considered. The petitioner at no point of time is provided with the copy of alleged complaint, nor the copy of report of the investigating officer. Even the grievance redressal committee at no point of time issued notice to the petitioner before coming to the conclusion that the income of the petitioner is more than Rs. Two Lacs and that the petitioner is not eligible to be issued with the letter of intent.

2. Mrs. Dube, the learned counsel for respondent Nos. 2 to 4 submits that, a complaint was received by respondent Nos. 2 to 4, wherein it was stated that, the petitioner's S.S.C. certificate is fake, so also income of the petitioner is more than Rs. Two Lacs. Upon making detailed enquiry, investigation officer found that the complaint with regard to fake S.S.C. certificate could not be established. However, income of the petitioner being more than Rs. Two Lacs was established. On the basis of the report submitted, the grievance redressal committee has taken a

decision.

3. Mr. Chavan, the learned counsel for the respondent No. 5 submits that, income of the petitioner was more than Rs. Two Lacs. The case of the petitioner is rightly not considered by respondent Nos. 2 to 4. The respondent No. 5 is issued with the dealership and is running its retail outlet since 2005.

4. We have considered the submissions canvassed by learned counsel for respective parties.

5. The factual matrix that the petitioner was at Sr. No. 1 in the selection process is not disputed. The reason for not issuing letter of intent to the petitioner is that, upon receipt of complaint, investigation was made and it is found that, the income of the petitioner is more than Rs. Two Lacs during the year 1999-2000.

6. There are no documents before us filed either by the petitioner or respondents about the exact income of the petitioner. The dealership was to be given to a woman candidate having income less than Rs. Two Lacs. The respondent Nos. 2 to 4 have filed on record the notes of investigation of complaint, wherein the investigation was conducted and investigation report states that, the income of the petitioner during the year 1999-2000 is more than Rs. Two Lacs and the details of income of the respondent along with her husband are given.

7. In normal course, the respondent Nos. 2 to 4 were required to give an opportunity to the petitioner upon receipt of complaint, to put forth her case and so also on the investigation report, then ought to have taken the decision. It is a case of violation of principles of natural justice.

8. It is a fact that, the respondent No. 5 is running retail outlet since the year 2005. The present income of the petitioner is also not placed on record. Moreover, the petitioner could have placed on record her income and that of her husband for the year 1999-2000, as may have been submitted to the income tax authorities, bank statement, etc. Same is not on record. It is also duty of the respondent No. 5 to place on record relevant documents. Same are lacking. There are no malafides alleged as against respondent Nos. 2 to 4 are concerned. In the light of that after about twelve years, it would not be possible to consider the case of the petitioner and to negate the report.

9. Considering all the aforesaid aspects of the matter, the writ petition is disposed of. Rule discharged. No costs.

[A. I. S. CHEEMA, J.]

[S. V. GANGAPURWALA, J.]