

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10048 OF 2014

Surekha Appasaheb Janjire
age: 40 years, occu: Agriculture,
R/o At Post Bherdapur
Tq.Shrirampur, Dist. Ahmednagar

Petitioner

Versus

1 The union of India
Through It's Secretary
Ministry of Petroleum & Natural Gas
Government of India
Shastri Bhavan
New Delhi 110 001

2 The Indian Oil Corporation Limited
A Government of India Undertaking
Registered office – IOCL Bhavan
G-9, Ali Yawar Jung Marg,
Bandra (East)
Mumbai

3 The Indian Oil Corporation Limited
Marketing Division,
Plot No.99, Jyotinagar,
Aurangabad (M.S.)
through: Its General Manager

4 Sau Kavita Rajendra Kawde
age: 30 years, occu: household

5 Sau Jyoti Ganesh Kawde
age: 29 years, occu: household

6 Sau Sharda Appasaheb Gawade
age: 40 years, occu: Household

All R/o At Post Bherdapur
Tq. Shrampur, Dist. Ahmednagar

Respondents

Mr.R.R. Mantri h/f Mr. A.B. Agrawal advocate for the petitioner
Mr.A.P. Bhandari advocate for respondent Nos.2 and 3
Mr. D.N. Bankar Patil advocate for respondent No.4

CORAM : ***R.M. BORDE &
P.R. BORA, JJ***

Reserved on : 16.7.2015

Pronounced on: 11.8.2015

JUDGMENT

(Per: R.M. Borde, J)

1 Heard.

2 Rule. With the consent of parties, petition is taken up for final disposal at admission stage.

3 The petitioner is a woman, belonging to open category and is a resident of village Bherdapur, Taluka Shrirampur, District: Ahmednagar. The respondent Indian Oil Corporation issued an advertisement, for appointment of dealers for retail sale of petroleum products under the scheme ' Kisan Seva Kendra' for various locations. The location '*Bherdapur*' was prescribed for woman open category. However, it appears that, in the advertisement, there was incorrect mention of the location and

instead of '*Bherdapur*', it was typed as '*Bherlapur*'. The petitioner claims that, she, along with her sister-in-law and few others, tendered applications for allotment of dealership. The petitioner contends that, her name was considered favourably and was included in the selection panel being the first and only empaneled candidate.

4 The petitioner contends that, a Writ Petition No.5406/2011 came to be presented to this Court, by one Kavita Rajendra Kawde, Jyoti Ganesh Kawade and Sharda Appasaheb Kawde, who are related to petitioner. The grievance made in the Writ Petition, was in respect of the error occurred in prescribing the location in the advertisement. It appears to be the contention of the petitioners in the aforesaid writ petition that, due to error appearing in the advertisement in respect of the location, they could not tender their applications and as such, could not compete along with others.

5 It thus appears that, earlier there was a complaint, lodged by aforesaid petitioners to the Petroleum Company, in respect of error appearing in the advertisement, concerning the aforesaid location Bherdapur. The petitioner, herein, contends that, although inclusion of her name in the selection panel was within the

knowledge of the petitioners in Writ Petition No.5406/2011, she was not impleaded as party to the petition. It is alleged that, although the leave to amend was secured from the Court, the amendment was not carried out and thus the present petitioner was not served and as such, she could not contest the writ petition, preferred by Kavita Rajendra Kawde and others. It is the contention of the petitioner that, due to the malafides attributable to the aforesaid writ petitioners, an order came to be passed, adversely affecting the chances of the petitioner herein, to claim the dealership.

6 It appears that, the respondent Petroleum Company caused appearance in Writ Petition No.5406/2011 and placed on record, the decision of the Petroleum Company to cancel the selection panel for the location Bherdapur, as well as the interviews which were held on 4.7.2011, since the name of the location was misspelt. It was also decided to refund the application fees to the applicants, who had applied for the location, in view of the cancellation of the selection panel for said location. It was also decided to instruct Aurangabad Divisional Office to re-advertise the location with correct spelling '*Bhedrdapur*' after assessing the value norms as per the Policy. The copy of the communication issued by the Chief Manager (Retail Sales) dated 13.6.2012 was

placed on record and the writ petition came to be disposed of.

7 The petitioner submits that, as a result of cancellation of the selection panel in her absence and without any notice to her, although certain right was crystallized in her favour, a prejudice is caused to her. The Petroleum Company, thereafter proceeded to issue an advertisement on 22.10.2014 for various locations. However, it prescribed reservation for location Bherdapur for OBC category. The petitioner submits that, it was an error on the part of the Petroleum Company to prescribe the aforesaid location for a reserved category. It is submitted that, the selection panel for the location was canceled, merely because, in the earlier advertisement, there occurred a spelling mistake and a decision has been rendered in the Writ Petition in the absence of the petitioner. The Court was given to understand that, the location would be re-advertized with the correct spelling. However, it was never indicated that, the reservation for aforesaid location would undergo any change. The petitioner contends that, as a result of prescription of reservation for the aforesaid location for a different category, without there being any specific order from the High Court in the earlier writ petition to that effect, a prejudice is caused to her and it needs to be directed to the respondent Petroleum Company to readvertise the location for woman open

category as reflected in the earlier advertisement dated 15.2.2011.

8 The request made by the petitioner, appears to be reasonable and proper and in consonance with the earlier orders passed by the High Court in Writ Petition No.5406/2011. The whole process of selection, in pursuance to the advertisement dated 15.2.2011 concerning the location Bherdapur was canceled merely on occurrence of spelling mistake. The order has been issued by the High Court in the aforesaid writ petition in absence of the petitioner, who was an empaneled candidate. The communication placed on record before the High Court issued by the Chief Manager (Retail Sale) dated 13.6.2012, which is the basis for issuance of order by the High Court does not indicate that the re-advertisement for the location Bherdapur would be for a different category. Since the earlier advertisement has been canceled in respect of location Bherdapur merely on the ground of spelling mistake occurring in the advertisement in respect of location, it was rightful and proper for the Petroleum Company to re-advertise the location after correcting the spelling mistake and issue advertisement describing the correct location. The petitioner, who is already put to prejudice as a result of disposal of writ petition in her absence, is put to further prejudice, since the

Petroleum Company has, without there being any indication in the order passed by the High Court earlier, changed the reservation in the location Bherdapur. In fact it was logical and proper for the Petroleum Company, after cancellation of advertisement for the prescribed location Bherdapur, in pursuance to the undertaking given to the Court in Writ Petition No.5406/2011 to issue an advertisement by only correctly describing the location alone and without causing any other change. There is no justification for the respondent Petroleum Company to change the category of reservation. The subsequent advertisement for the appointment of dealer, for the said location, which was subject matter of the earlier advertisement, is mere continuance of the earlier process and as such, it was incumbent for the Petroleum Company, to maintain the category of reservation. The contention raised by the petitioner in the instant petition is reasonable and proper and deserves acceptance.

9 For the reasons recorded above, the writ petition is allowed. The advertisement issued by the respondent for the location Bherdapur dated 22.2.2014 is quashed and set aside and it is directed to respondent Petroleum Company to re-advertise the location by correcting only the mistake occurred in the spelling, in the advertisement dated 15.2.2011 and by correctly prescribing

the location, without causing any change in the particulars, including the category of reservation and maintaining all the particulars, reflected in the advertisement dated 15.2.2011, as expeditiously as possible and preferably within a period of three months from today.

10 Rule is made absolute accordingly.

11 There shall be no order as to costs.

(P.R. BORA, J)

(R.M.BORDE, J)

vbd