

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.11551 OF 2014

Sangita Bharat Gavit & another

Petitioners

Versus

Bharat Petroleum Corporation Limited

and another

Respondents

Mr.R.R. Mantri advocate for the petitioners

Mr.S. D. Kulkarni advocate for Respondents

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

Dated : 8th JULY, 2015.

PER COURT :-

1 The petitioners are objecting to the order passed by the respondent Petroleum Company, rejecting the application tendered by petitioner No.2, for continuance of the distributorship, awarded in the name of sole Proprietor M/s Deomogra Gas Agency. The petitioner contends that, the distributorship was awarded by the Petroleum Company, in the name of Hemlata Walvi long back. After her demise, her husband Dilip Walvi was looking after the business. It is stated that Dilip Walvi also passed away on 13.4.2014. The petitioners contend that petitioner No.2 has been adopted, during the life time of Hemlata, by the couple and as such, from the date of adoption, petitioner No.2 shall have to be considered as an adopted son of deceased Dilip Walvi. The Petroleum Company has issued a letter addressed to M/s

Deomogra Gas Agencies on 9.5.2014, offering condolence on demise of Dilip and further informed the Distributor to present requisite details of legal heirs of Dilip Walvi, so as to facilitate the Petroleum Company to continue with the distributorship agreement, entered into, with deceased Hemlata, during her life time. The petitioner No.2 submitted his claim along with necessary documents to the Petroleum Company. However, the request of petitioner No.2 for continuance of the distributorship, allotted in favour of M/s Deomogra Gas Agency, was turned down, by communication dated 6.8.2014, on the ground that, the adopted son cannot claim to be a member of the family of the deceased distributor. It is noted in the communication that, the definition of family members, recorded in the distributorship selection guidelines, does not include adopted son and as such, the petitioner No.2 is not entitled to claim continuance of the distributorship.

2 Learned counsel appearing for the petitioners, contends that, the ground for rejection of the claim of the petitioner, is erroneous, since there does not appear to be any bar in the definition of '*family member*', prescribed under the distributorship guidelines, for an adopted son, to tender an application and claim to be member of the family. It is contended that, the adopted son shall have to be placed at par with the naturally born son, for all valid purposes. On and from the date of adoption, the adopted son shall have to be treated at par with naturally born son and effect of adoption relates back to the date of birth of such child. The Petroleum Company has not set out any other reason for rejecting the claim of the petitioner. In the facts and circumstances of the case, this petition can be disposed of, by directing the Petroleum

Company to reconsider the claim of the petitioner No.2 for his appointment as a distributor, or for continuance of the business of the Gas Agency, allotted in the name of Deomogra Gas Agency, during life time of Hemlata Valvi as her legal heir. It would be open for the Petroleum Company to consider the claim of the petitioner, on its own merit and in accordance with the Policy guidelines. However, the claim shall not be turned down, only on the ground that, he is an adopted son. The claim shall be disposed of as expeditiously as possible and preferably within a period of four months from today.

3 With the directions as above, writ petition is disposed of.

(P.R. BORA, J)

(R.M.BORDE, J)

vbd