

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2598 of 2013

Mr.Sandeep Tanaji Patil,
Age 24 years, Occ. Business,
Kolhapur Ratnagiri Road,
Hotel Shivprasad, Borpadale,
Tal. Panhala, Dist. Kolhapur.

....Petitioner.

vs.

- 1) Mr. Prashant Annasaheb Khutale,
Age 37 years, Occ.Doctor,
Address at & Post Bambawade,
Tal. Shahuwadi, Dist. Kolhapur.
 - 2) Bharat Petroleum Corporation Ltd.
Through Chairman/Chief Registrar,
Bharat Bhavan 4 and 6, Currimbhoy Road,
Ballard Estate, P.B. No.688,
Mumbai-400 001.
 - 3) R.H. Furtado,
Chairman, Dealer Selection Committee
Bharat Bhavan 4 and 6, Currimbhoy Road,
Ballard Estate, P.B.No.688,
Mumbai 400001.
 - 4) Mr.Sanjay Sood,
Sr. Manager, Dealer Selection (W),
12/E & F, Maker Towers,Cuffe Parade,
P.B.19949, Mumbai 400005.
 - 5) The Territory Manager (Retail)Goa,
Plot No.H-32, EDC Complex, P.B.No.228,
Patto, Panjim,Goa-403001.
-Respondents.

Mr.R.S.Apte, Sr. Advocate I./by Girish Paryani for Respondent No.1.
Mr.A.Y.Sakhare, Sr. Advocate i/by J.J.Carlos for Respondent No.1.
Mr.S.R.Page for Respondent Nos. 2 to 5.

CORAM : A.S.OKA & A.S.GADKARI, JJ.

DATE : 23rd October, 2015.

JUDGMENT: (Per A.S.Gadkari, J.)

By the present petition under Article 226 of the Constitution of India the petitioner has challenged the order/reply dated 21.1.2013 by the Senior Manager, Dealer Selection, West of the Respondent No.2, thereby dismissing the complaint of the petitioner filed against respondent No.1.

2) The petitioner has prayed that by a Writ of Certiorari or a Writ in the nature of Certiorari or any other appropriate writ may be issued for quashing and setting aside the decision of declaring respondent No.1 as eligible candidate for grant of Retail Outlet of BPCL for petrol/diesel at Bambavade to Kerle on National Highway 204 (LHS) and for a Writ of Mandamus or Writ in the nature of Mandamus directing cancellation of the selection procedure selecting respondent No.1 as the most eligible candidate and for a declaration that, the petitioner being the 2nd successful candidate as eligible candidate for Retail Outlet of BPCL for Petrol/Diesel at the aforesaid site and for other consequential reliefs.

3) It is the case of the petitioner that the petitioner was one of the competing candidate for Retail Outlet Dealership of Petrol/Diesel at Bambavade to Kerle on National Highway 204(LHS) under open category. The petitioner had submitted his application as per the advertisement published by the Bharat Petroleum Corporation Ltd. in daily newspaper Lokmat, Kolhapur Division on 16.9.2011. That, the petitioner submitted his application with

requisite fees on 18.10.2011. The petitioner thereafter received a letter issued by respondent No.2 BPCL consisting the list of interested candidates who had applied for the said Retail Outlet were called for interview on 4.9.2012 at Miraj. That, the Selection Committee interviewed all the candidates and came to the conclusion that the respondent No.1 was most eligible candidate for the said Retail outlet. That, in pursuance of the Rules prescribed by respondent No.2, that any person aggrieved with the resolution or decision of the Selection Committee regarding the marks allotted or in dispute, may apply to the company within 30 days from the date of result. The petitioner filed his complaint against respondent No.1 to respondent No.2 before the Territory Manger (Retail) Goa on 28.9.2012 and requested to reconsider the marks allotted to the petitioner and respondent No.1.

4) The petitioner in his complaint has raised the objections about the location and capability of the land offered by the respondent No.1. The petitioner in his complainant has stated that the road from Bambavade to Kerle was initially State Highway which was later on converted into National Highway, which passes through the land of respondent No.1 and divides it into two equal parts. The petitioner has also raised an objection that the land which was offered by respondent No.1 and mentioned in his application is jointly owned by 19 other co-owners. That, the said land is still undivided, which may in future create difficulty about the boundaries and the portion owned by the respective co-owners. The petitioner has also raised an objection that there are two other petrol pumps in existence at Bambavade Village on the same Highway

within the area of 1-K.M. offered by the respondent No.2 and therefore, it will be very impossible to achieve the target of sale i.e. 40/150 K.L., as mentioned in the advertisement. He has also raised an objection that respondent No.1 is Doctor by Profession having qualification DHMS which is full termed degree and it was shocking for the petitioner that respondent No.1 has procured experience letter of working as part time Manager managing staff of around 20 persons from M/s. India Automobiles. That, the said experience letter was doubtful and created suspicion in the mind of the petitioner. That, the respondent No.1 is having a hospital and is running medical clinic at Village Bambavade and therefore, is not a fit person for requirement of full time supervisor as per the advertisement published by respondent company.

5) The record discloses that by reply/order dated 21.1.2013 the Senior Manager, Dealer Selection, West has rejected the said complaint dated 28.9.2012 filed by the petitioner as stated herein above. The same is impugned herein as stated above.

6) Heard Mr. R.S.Apte, learned Senior Counsel with Girish Paryani for Petitioner, Mr. A. Y. Sakhare, Senior Counsel for Respondent No.1 and Mr.S.R.Page for Respondent Nos. 2 to 5. We have also perused the record annexed to the application.

7) The record discloses that after the petitioner made a complaint on 27.9.2012 the same was received by the concerned authority on 3.10.2012. The concerned authority thereafter requested the complainant to provide documents in respect of the allegations made against the respondent No.1. The petitioner thereafter submitted necessary documents by his letter dated

12.12.2012.

8) Taking into consideration the grievances made by the petitioner and the documents submitted in support thereof, the concerned authority has recorded its findings. It is stated in the said reply/order dated 21.1.2013 that the said authority/committee has followed the process of evaluation mentioned in the said communication in the selection process or the said location. The said authority has come to the conclusion that the land offered by respondent No.1 is found to be in order and in addition to the same selected candidate-respondent No.1 is required to offer the land for Retail outlet within two months from the issue of letter of intent. As far as evaluation of the land under the parameter prescribed for the same is concerned, the concerned committee has awarded 90.33 marks out of 100 to the Respondent No.1. The development of Retail Outlet is subject to no objection certificate from the approval of the Government Authorities including National Highway Authority of India. That, the Retail Outlet location was advertised after conducting feasibility study from commercial point of view and the location was found feasible and hence, the advertisement was published for the same. As far as eligibility of respondent No.1 for Retail Outlet dealership is concerned, after taking into consideration the documentary evidence provided by respondent No.1 to establish Managerial or Supervisory experience of one year and the other criteria, the said authority had come to a conclusion that respondent No.1 is found to be eligible and therefore, he was called for interview. The certificate provided by the petitioner cannot be ignored only on the ground that he was a homeopathic

practitioner. The concerned authority has also recorded the finding that the site offered by respondent No.1 meets the requirements as per the advertisement. Taking into consideration, the aforesaid stated various facts, the concerned authority found that there are no merits in the complaint of the petitioner and the same stood disposed of.

9) We have minutely perused the said order /reply dated 21.1.2013 issued by Senior Manager Dealer Selection, West, we are of the considered opinion that while dealing with the complaint dated 27.9.2012 filed by the petitioner, the said authority has not committed any error either of law or on facts. The said Authority has reached to the said conclusion after taking into consideration the entire material available on record, the Authority has drawn a possible and rational conclusion in that behalf. We find that there is no need to interfere and to set aside any of the findings recorded by the said authority. In our considered opinion, the present petition being devoid of any merits and is liable to be dismissed and is accordingly dismissed.

(A.S. GADKARI, J.)

(A. S.OKA, J.)