

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
PUBLIC INTEREST LITIGATION NO. NO. 120 OF 2014

Anil Pandurang Magdum ... Petitioner
V/s.
Indian Oil Corporation Ltd. & Others ... Respondents.

Mr. A. Y. Sakhare Senior counsel i/b Mr. Ashish P Pawar Advocate for
Petitioner
Mr. M. D. Siodia i/b M/s Rustamji Ginwala for Respondent nos. 1 to 3

**CORAM : NARESH H. PATIL AND
V.L. ACHLIYA, JJ.
DATED : 18th March 2015.**

PC.

1) Heard. None appears for Union of India. Petitioner herein, who is an agriculturist has raised the issue concerning an advertisement issued by Respondent Oil Companies for allotment of LPG Distributorship. Learned senior counsel appearing for the petitioner submits that the quota for handicapped person is not separately and specifically marked and allotted while companies issue advertisements. Second issue raised in respect of re-structuring plan adopted by the companies. It was further submitted that without any proper survey, respondents proceeded for issuing advertisement, calling applications for allotment of dealers in Kolhapur District.

2) Respondent Indian Oil Corporation Ltd filed an affidavit in reply through Mr. Anil Shukla. The deponent stated in the reply that as regards the reservation for persons with disabilities, the Company, after a study, has adopted a policy to club categories like Physically Handicapped, Freedom Fighters and outstanding sport persons. These categories, as one component were allotted 4% quota out of the total number of dealerships to be awarded. Deponent stated that Company conducts proper survey and thereafter location is fixed considering various studies. As regards the issue concerned re-structuring plan, in para 17 & 18 the deponent contends as follows:

“17. I say and submit that the Public Sector Oil Companies review the selection guidelines periodically to improve the efficacy, transparency and service standard of the guidelines in the interests of the Public and make amendments to the Selection Guidelines as and when necessary. As per the present guideline from MOP & NG, the monthly refill ceiling limit is given below:

	Type of Market	Monthly Refill Ceiling
A	Rural Area within 15 kms	8800
B	Town with <10 lacs population	8800
C	Population 10 to 20 lacs	11000
D	Population 20 to 40 lacs	13200
E	Population > 40 lacs	16500

18. I say that in the above process, some of the locations which were having huge number of customer population and refill sales, the locations were identified and included under above restructuring plan guidelines. Bases on the customer population and LPG refill sales of existing distributorship, new distributorship numbers were finalized. Hence, the contention of the Petitioner that Oil Companies are not doing the market survey and feasibility study is incorrect.”

3) Learned counsel appearing for respondent submitted that it is experience of the companies that hardly any application from category of Freedom Fighters and Outstanding Sport Person is received. In that event, major beneficiary are the applicants belonging to physically handicapped category. Under the present advertisement, 29 such applications belonging to physically handicapped persons got the letter of intents. Learned counsel submits that petitioner raises issue concerning advertisement issued in the year 2013. The process is already got completed and the respective dealers are appointed by the respondent company. Learned counsel has brought to the notice of this Court some of the provisions, manual prepared by Oil Marketing Companies on guidelines for selection of Regular LPG Distributors. These Companies include Indian Oil Corporation, Bharat Petroleum Corporation & Hindustan Petroleum Corporation. Learned counsel submit that in accordance with the manual,

guidelines and instructions issued by Union of India from time to time, respondent Companies issue advertisement and appoint dealers. Learned counsel further submits that it is a policy of company not to allot huge number of customers to one particular dealer in the locality. In case, dealer crosses the ceiling limit, Company takes appropriate decision for issuing fresh advertisement in the larger interest of the customers. By and large, dealer having excess refill ceiling quota is asked to transfer the customers to other dealer.

4) We have perused the record placed before us and the manual prepared in the month of May 2013.

5) Under the said advertisement, it is stated that selection process is already completed and the dealers are appointed. Learned counsel appearing for the petitioner has placed reliance on Judgment delivered by Rajasthan High Court in Writ Petition No. 347 of 2014 ***L.P.G. Distributors Federation, Jaipur V/s Union of India & Ors.*** A simple copy of the said Judgment is placed on record and Judgment of Supreme Court ***Centre for Public Interest Litigation V/s Union of India and Others*** 1995 (3) SCC 382. In para 3, Hon'ble Apex Court has framed guidelines which are to be the guiding factors in discretionary allotments of dealerships/distributorship on compassionate grounds.

- 6) Learned counsel appearing for the respondents submitted that in the present advertisement, 29 applications from physically handicapped category were issued letter of intents and were appointed as distributors of respective companies.
- 7) After considering the record and submissions advanced, we are of the view that respondents shall follow appropriate instructions. Respondents shall implement the policy framed in respect of 'Monthly ceiling limits', applicable to individual dealers. Respondents shall take regular assessment of the performance in respect of distribution of refill cylinders by the individual dealers so that largely consumer is benefited.
- 8) With above directions and observations, petition stands disposed of. Registry shall forward the copy of this order to the respondents, forthwith.

(VL. ACHLIYA, J.)

(NARESH H. PATIL, J.)