

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

Writ Petition No.1341/2015

**(Sachin Suryakant Mitkare .vs. Indian Oil Corporation Ltd. , Nagpur through
its Chief Area Manager)**

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders.

Mr. A.H. Lohiya, Advocate for Petitioner.
Mr.R. Joshi, Advocate for Respondent.

CORAM : B.R. Gavai & Indira K. Jain, JJ.

DATED : June 18, 2015.

1. The petitioner has approached this Court being aggrieved by the rejection of his candidature for grant of L.P.G. Dealership.

2. The petitioner was successful in draw of lot. Upon field verification, it was found that the land was not in the name of the petitioner but his uncle. It is the contention of the petitioner that the member of a family is not defined in the brochure. In that the definition of the 'Family Unit' would be of no help for construing that the uncle of the applicant is not a member of a family. He submits that since the petitioner and his uncle are part of the joint hindu family, the petitioner's case would be governed by the benefit which a member of a family is entitled to.

3. The learned counsel further submits that since the petitioner had not concealed the information regarding the land being in the name of his uncle and

since the respondent had found him eligible for draw of lot, the respondent is now not entitled to cancel the dealership of the petitioner on the said ground.

4. Clause (viii) of the Brochure on Guidelines for Selection requires a land to be owned by the applicant. The word "own" has been defined in the brochure as thus:-

"Own' means having ownership title of the property or registered lease agreement for minimum 15 yrs. In the name of applicant/family member (as defined in multiple distributorship norm of eligibility criteria) as on the last date for submission of application as specified in the advertisement or corrigendum (if any). In case of ownership/co-ownership by family members(s) as given above, consent in the form of a Notarized Affidavit from the family member(s) will be required.

In case the land is jointly owned by the applicant/member of 'Family Unit' (as defined in multiple dealership/distributorship norm) with any other persons(s) and the share of the land in the name of applicant/member of the 'Family Unit' meets the requirement of land including the dimensions required, then that land for godown/showroom will also qualify for eligibility as own land subject to submission of 'No Objection Certificate' in the form of an Notarized Affidavit from other owner(s)."

5. It can thus be seen that a land would be construed to be a land owned by the applicant, if it is owned by the member of a family. It would be further revealed that the said clause provides that a member of a family would be the one who comes within the ambit

of family unit. The family unit is defined under clause (v) which reads thus:-

"Family unit' in case of married person/applicant, shall consist of individual concerned, his/her Spouse and their unmarried son(s)/daughter(s). In case of unmarried person/applicant, 'Family Unit' shall consist of individual concerned, his/her parents and his/her unmarried brother(s) and unmarried sister(s). In case of divorcee, 'Family Unit' shall consist of individual concerned, unmarried son(s)/unmarried daughter(s) whose custody is given to him/her. In case of widow/widower, 'Family Unit' shall consist of individual concerned, unmarried son(s)/unmarried daughter(s)."

6. It can thus be seen that irrespective of the question as to whether the petitioner is married or unmarried or a widower, the uncle would not come within the definition of the family unit. In that view of the matter, we find that the first contention is without substance.

7. Insofar as the second contention is concerned, merely because the petitioner was permitted to participate in the draw of lot, cannot vest a right in him if otherwise he is not entitled to.

8. In that view of the matter, we do not find that there is a merit in the petition. Petition is dismissed.

9. However, since the petitioner was permitted to participate in the draw of lot and since there was no concealment of factual position, we direct the

respondent to refund to him the amount of security deposit. The same shall be done within a period of three weeks from today.

JUDGE

JUDGE

halwai