

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Writ Petition No. 1850 of 2013

District : Aurangabad

Shri Mayur s/o. Kailas Bamb,
Age : 24 years,
Occupation : Student,
R/o. Gandhi Chowk, Ajantha,
Taluka : Sillod,
District : Aurangabad.

.. Petitioner.

versus

1. The Union of India,
Through its Secretary,
Ministry of Petroleum and
Natural Gas,
New Delhi.
2. The Executive Director (LPG),
Bharat Petroleum Corporation Ltd.,
"Bharat Bhavan", 4 & 6,
Currimbhoy Road, Ballard Estate,
P.B. No. 688, Mumbai - 400 001.
3. Bharat Petroleum Corporation Ltd.,
Through its Territory Manager (LPG),
P-27, Additional M.I.D.C.,
Jalgaon - 425 003.
4. Imran Dawood Syed
s/o. Dawood Karim Syed,
Age : Major,
Occupation : Education,
R/o. Deshmukh Galli, Ajantha,
Taluka : Sillod,
District : Aurangabad.

5. Vishal s/o. Prabhakar Rao Deshmukh,
Age : 27 years,
Occupation : Business,
R/o. Deshmukh Galli, Ajintha,
Taluka : Sillod,
District : Aurangabad.

.. Respondents.

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*Mr. S.B. Talekar & Mr. U.R. Awate, Advocates, for
the petitioner.*

*Mr. S.B. Deshpande, Assistant Solicitor General of India,
for respondent no.1.*

Mr. S.D. Kulkarni, Advocate, for respondent nos.2 and 3.

Respondent no.4 served (Absent).

*Mr. Shaikh Mujtaba Gulam Mustafa, Advocate, for
respondent no.5.*

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**CORAM : S.V. GANGAPURWALA &
A.M. BADAR, JJ.**

DATE : 11TH JANUARY 2016

COURT'S ORDER (Per S.V. Gangapurwala, J.) :

1. Heard the learned Counsel for respective parties.
2. The petitioner was selected in the draw for dealership of Liquefied Petroleum Gas under Rajiv Gandhi Gramin LPG Vitruk (RGGVL) Scheme, by the the respondent - Bharat Petroleum Corporation Ltd. The Field Verification Committee issued notice to the petitioner for

compliance of certain documents. Thereafter, candidature of the petitioner was rejected for non-compliance. Aggrieved thereby, the present petition.

3. Mr. Talekar, the learned Counsel for the petitioner, submits that the petitioner is having a motorable road for all weather conditions to approach to its godown and showroom. The learned Counsel submits that all clauses of the advertisement were being complied by the petitioner and was selected pursuant to the draw. Even in the notice which was issued to the petitioner, it was nowhere stated that the petitioner does not have a road of its own to approach the godown / showroom and rejection of the candidature of the petitioner is solely on the ground that the petitioner does not own a private road or a public road or that the same is not stated in the relevant revenue record. The learned Counsel submits that all documents were submitted. Even photographs are also submitted which would show that the motorable road for all weather conditions is available. The learned Counsel submits that even affidavit of the persons from vicinity was filed saying that there was no objection to the petitioner for using the said road. The learned Counsel submits that it was not objection of the respondent that if it is a private road, it should be owned by the petitioner. If that objection would have been taken, the petitioner would have purchased the said land under the road from other persons. More than half of the road is on the land belonging to the petitioner himself. The learned Counsel submits that the rejection of candidature of the petitioner is illegal.

4. Mr. Kulkarni, the learned Counsel for respondent nos.2 and 3 - Corporation, submits that the condition in the brochure and the

advertisement clearly states that the plot of the land should be freely accessible through all weather motorable approach road. It may be a public road or a private road. In case of a private road, same should belong to the applicant / member of the family. The same is not there. As such, the candidature is rightly rejected. The learned Counsel further submits that after the draw pursuant to which the petitioner was selected and his candidature was cancelled, there was a second draw and in the second draw also, none of the candidate was selected. There was a third draw and in the third draw, a candidate is selected and letter of intent is also issued to the said candidate.

5. We have considered the submissions advanced by respective parties. The condition laid down in Clause 'h' of the brochure is as under :-

"(i) Should own a plot of land of adequate size at the advertised RGGLV location for construction of godown for storage of 5000 Kg of LPG in cylinders or ready LPG cylinder storage godown of 5000 Kg capacity. As per Gas Cylinder Rules 2004, the floor area of the storage shed for storing 5000 Kg LPG in cylinders should be 50 sq. metres. The length of the storage shed should not be more than 1.5 times of width of storage shed. There should be clear minimum safety distance of 6 metres between storage shed and the boundary wall / fencing. The plot land with minimum dimension of 20 metres by 24 metres is adequate. It should be freely accessible through all weather motorable approach road (public road or private road connecting to the public road). In case of private road connecting to the public road, the same should belong to the applicant / member of

family as defined in h(iii) below in the ownership criteria for land. In case of ownership / co-ownership by family member(s) in respect of such private road, consent letter from respective family member(s) will be required.

(ii) The land should be plain, in one contiguous plot, free from live overhead power transmission or telephone lines, Canals / Drainage / Nallahs should not be passing through the plot. The land for construction of LPG godown should also meet the norms of various statutory bodies such as PWD / Highway authorities / Town and Country Planning Department etc.

(iii) **Own** means having clear ownership title of the property in the name of applicant / family member(s) of the 'Family Unit' as defined in multiple dealership / distributorship norm or land belonging to parents & grandparents (both maternal and paternal) of the applicant 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 member(s) as given above, consent in the form of a Notarized Affidavit from the family member(s) will be required.

(iv) In case the land is jointly owned by the applicant / member of family Unit (as defined in multiple dealership / distributorship norm) / parents & grandparents (both maternal & paternal) of the applicant with any other person(s) and the share of the land in the name of applicant / member of the family unit / parents & grandparents (both maternal and paternal) of the applicant meets the requirement of land including the dimensions required, then that land for godown 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).

(v) In case an applicant has more than one suitable plot for construction of godown for storage of 5000 Kg of LPG in cylinders or ready LPG cylinder storage godown of 5000 Kg capacity available as on the last date for submission of application as specified in the advertisement or corrigendum (if any), then the details of the same can also be provided in the application. "

6. The said clause lays down that there has to be a freely accessible through all weather motorable approach road. The same may be either public or private. If it is a private road which is connecting public road, the said private road should be owned by the candidate or member of his family. The same has been laid down in Clause 'h' Sub-Clause (iii). Considering the aforesaid clause, it is manifest that the petitioner was not owner of the private road. There were other persons who were owners of the said private road. The same was not in consonance with Clause 'h'. Considering the above, we do not find any error in rejecting candidature of the petitioner. Moreover, fresh candidate is selected and letter of intent is also issued to him.

7. In the light of above, no interference is called for. The Writ Petition is accordingly dismissed. No costs.

(A.M. BADAR)
JUDGE

(S.V. GANGAPURWALA)
JUDGE

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