

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

WRIT PETITION NO. 9975 OF 2015

Dushyant s/o Harischandra Mate .. Petitioner

Versus

Indian Oil Corporation Ltd. .. Respondent

.....
Mr N. V. Gaware, Advocate for the petitioner
Mr A. P. Bhandari, Advocate for respondent.
.....

**CORAM : A.V.NIRGUDE &
V.L. ACHLIYA, JJ.
DATED : 27.07.2016.**

PER COURT :

. Heard learned counsel for respective parties at length.

2. By this petition, petitioner challenges the decisions dated 07.05.2015 and 20.07.2015 taken by respondent No. 1 regarding candidature of petitioner for allotment of LPG distributorship. The facts of the case are as under:

3. LPG distributorship for the city of Ahmednagar was offered to public at large. In April-2013, certain eligibility criteria was prescribed. The petitioner offered his candidature for allotment of said distributorship. He also mentioned that, he was sufficiently eligible because he owned a plot No. 140 of Ahmednagar Industrial Estate Co-operative Society Ltd., Ahmednagar where he is allottee of one plot with a structure. Lots were drawn and the petitioner succeeded in it. In December 2014, officer of respondent No. 1 came for field verification. Initially, they found that plot No. 140 of the petitioner is situated at a remote place and away from residential complexes and therefore on 10.12.2014, they asked the petitioner as to whether instead of plot No. 140, he could offer an alternate shop or land for setting up showroom. The petitioner submitted proposal of alternate place but, admittedly this alternate arrangement was not pursued at the end of respondent No. 1 and on 07.05.2015, they took a decision to cancel the petitioner's candidature mainly on the ground that during field verification, information given by the petitioner was found to be incorrect. The questions that come before us are whether the action of respondent No. 1 is arbitrary? whether they ought to have taken

decision on the alternate proposal submitted to them and (iii) whether the petitioner can be said to be guilty of making false representation or incorrect representation?

4. As regards question No. 1, on the face of it respondent No. 1 did not consider the proposal submitted by petitioner despite the offer about other accommodation for establishing a showroom was given by the petitioner after December 2014. Respondent did not take any decision on it. They admittedly did not consider it by visiting the spot for field verification etc.

5. Whether the petitioner can be said to be guilty of providing incorrect information? The answer to this is also in negative. On facts, the petitioner may not be original owner or allottee or lessee of plot No. 140 but, we *prima facie* found that the representation made by petitioner in his application may be based upon incorrect assumptions. Admittedly the deceased/mother of petitioner was original allottee. Subsequently it was transferred in the name of his father. He claims that society has made him member & transferred the allotment in his favour. Therefore, we allow this petition in terms of following order.

6. The impugned orders dated 07.05.2015 and 20.07.2015 are set aside. The candidature of the petitioner is restored. Respondent No.1 shall consider the alternate accommodation offered by the petitioner for LPG distributorship by adopting their usual mode of verification in accordance with their rules and regulations.

7. Respondent No. 1 shall consider the petitioner's case in respect of both the plots/properties offered by him for establishing a showroom.

[V. L. ACHLIYA]
JUDGE

[A. V. NIRGUDE]
JUDGE