

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

WRIT PETITION NO. 3229 OF 2013

Jayashree w/o. Pradip Jadhav .. Petitioner

Versus

The Union of India & Ors. .. Respondents

Mr.R.S. Deshmukh, Advocate for the petitioner.

Mr.S.B. Deshpande, Asstt. Solicitor General for
respondent No.1-Union.

Mr.Alok Sharma, Advocate for respondent Nos. 2 to 4.

Mr.M.V. Ghatge, Advocate for respondent No.5.

**CORAM : S.V. GANGAPURWALA &
K.L. WADANE, JJ.**

DATED : 01.02.2017

P.C. :-

1. The petitioner challenges the letter/order dated 11.03.2013 issued by respondent No.3 – Chief Manager (Retail Sales) Indian Oil Corporation (Marketing Division), Maharashtra State Office, Mumbai. Further directions are sought to issue revised mark-sheet.

2. We have heard Mr. Deshmukh learned Counsel for the petitioner, Mr. S.B. Deshpande, learned A.S.G. For respondent No.1, Mr.Sharma, learned Counsel for the Corporation and Mr.Ghatge, learned Counsel for respondent No.5 i.e. other candidate.

3. The learned Counsel for the respective parties have canvassed their submissions with regard to merits of the contention vis-a-viz the marks allotted by the Land Evaluation Committee under different parameters. Initially, the petitioner had raised objection with the Grievance Committee regarding the allotment of marks. The Grievance Committee dismissed the appeal/objection of the petitioner. The petitioner approached this Court. This Court set aside the order on the ground that the reasoned order is not passed. Thereafter, again it appears that the Grievance Committee had directed reassessment to be done. Pursuant thereof, the land Evaluation Committee has done reassessment. In reassessment the marks of the petitioner are increased under some criteria and in respect of some criteria same is reduced. The marks of respondent No.5 were also reassessed. Same is assailed in the present petition.

4. It is submitted by Mr.Sharma, learned Counsel for the respondent/Corporation and Mr. Ghatge, learned Counsel for respondent No.5 that this Court would not exercise its writ jurisdiction in contractual matters. There are no allegations of *mala fide* and arbitrariness. In such eventuality, the Court would not exercise its jurisdiction. Mr.Ghatge, learned Counsel for respondent No.5 relies on judgment of the Apex Court in the case of

Sanjay Kumar Shukla Vs. M/s. Bharat Petroleum Corporation Ltd. & Ors., decided on 7th February, 2014. Mr. Sharma, learned Counsel relies on the judgment of this Court in the case of **Swapnil Ramesh Kaulgud Vs. H.P.C.L.**, decided on 10th May, 2013 to contend that the decision of the Committee is not open for re-scrutiny before this Court.

5. Affidavits are also filed by the respondents.

6. It would appear that as per guidelines issued by the Corporation, assessment of marks are subject to challenge before the Grievance Committee set up by the Corporation.

7. There cannot be dispute with the proposition that this Court would not sit in appeal over the marks allotted by the Assessing Authority and that the Court would not re-scrutinize and re-assess the marks. It would appear that after the Grievance Committee referred the matter to the Land Evaluation Committee for re-assessment of marks, Land Evaluation Committee has re-assessed the marks given to the petitioner and respondent No.5. There are some changes in the marks being allotted. With regard to allotment of marks, a party being dissatisfied thereof is entitled to raise objection with the Grievance Committee i.e. marks allotted by the Land Evaluation

Committee, so also authority is subject to scrutiny before the grievance committee. In the case of Swapnil (Supra), the Court was considering the petition after the decision of the Grievance Redressal Committee. In the instant case, after the Land Evaluation Committee and the Authorities have redetermined and re-assessed the marks allotted to the petitioner and respondent No.5, same is not made a subject matter of scrutiny before the Grievance Redressal Committee. This Court certainly would not re-scrutinize the marks, which are given.

8. In the light of above, it would be appropriate for the Grievance Redressal Committee to scrutinize the marks allotted under order/letter dated 11.03.2013, which is issued by the Chief Manager (Retail Sales), Maharashtra State Office, Mumbai.

9. In view of above, we pass following order:-

i) The petitioner may approach the Grievance Redressal Committee within a period of 10 (ten) days from today. Upon the objection being filed by the petitioner, the Grievance Redressal Committee shall take decision upon such objection on its own merit as per law as laid down under the guidelines of Corporation. The

Authority, where the objection would be filed, would consider the time spent in litigation. All contentions of the parties are kept open.

10. With these observations, the writ petition is disposed of.

[K.L.WADANE, J.]

[S.V.GANGAPURWALA, J.]