

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6621 OF 2014

Shri Bhairappa Vithal Mali

... Petitioner

V/s.

Chief Manager (Retail Sales),

Indian Oil Corporation Limited and ors.

... Respondents

Mr.Ajit Jayawant Kenjale, Advocate for the Petitioner.

Mr.Jayesh Mestry i/by M/s RMG Law Associates, Advocate for Respondent No.1.

Mr.N.C.Walimbe, AGP for Respondent No.2.

CORAM : ANOOP V.MOHTA AND

P.R.BORA, JJ.

DATE : 25th JANUARY, 2017.

ORDER :

1. Rule. Rule is made returnable forthwith. By consent, heard finally.

2. On hearing the learned Counsel for the parties, we are inclined to dispose of the present Writ Petition. By the impugned order, Respondent No.1 rejected the application of the Petitioner for dealership for Retail Outlet (RO) at location Billur, District Sangli, (Open category), mainly on the basis of the complaint, which was received by them. The allegations in the complaint are

not subjected to an opportunity to the Petitioner, as it was against him. The documents and additional documents that were filed and that the complaint is genuine or not, is always subject to giving an opportunity of hearing to the person against whom the complaint is lodged. Admittedly, no opportunity, whatsoever was given and only based upon the complaint itself, the impugned order dated 18th January, 2014 was passed against the Petitioner, thereby permanently debarring his entitlement, if any.

3. The possibility of giving a justification by the Petitioner, or the parties, against whom the complaint is filed, can not be overlooked. Under Clause 18(B) of the Brochure of Indian Oil Corporation (Selection of Petrol /Diesel Rural Retail Outlet (Kisan Seva Kendra) Dealers), it is mentioned that due opportunity is required to be given to the complainant, that itself in our view, is not sufficient to deny the basic principle of natural justice to the Petitioner, whose application was rejected, on the basis of stated complaint.

4. Therefore, taking overall view of the matter and in the interest of justice, by keeping all points open, impugned order

dated 18th January, 2014 is quashed and set aside. The Respondents to consider the application filed by the Petitioner afresh, in accordance with law, as early as possible, preferably within eight weeks.

4. The Writ Petition is accordingly allowed and disposed of. Rule is made absolute accordingly. All contentions of the parties are kept open.

5. No costs.

(P.R.BORA,J.)

(ANOOP V.MOHTA,J.)

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