

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2877 OF 2018

Latabai Eknath Gaikwad

Petitioner

Versus

Union of India & another

Respondents

Mr.P.P. Chavan advocate for the petitioner
Mr.A.P. Bhandari for respondent No.2

CORAM : R.M. BORDE & K.K. SONAWANE, JJ

(Date: April 2nd, 2018)

PER COURT :-

1 The petitioner is objecting to the communication issued by the Petroleum Company holding her disqualified for award of LPG distributorship.

2 The petitioner participated in the process of selection for award of LPG distributorship by the Indian Oil Corporation for Pilkhed location, Dist. Jalgaon from amongst scheduled caste (SC) category. The advertisement was issued by the Petroleum Company on 1.9.2017. The type of distributorship applied by the petitioner is gramin (rural). The claim of the petitioner has been turned down mainly on two grounds, one that the land offered by the petitioner does not meet the requirements laid down by the

Petroleum Company and secondly that the petitioner does not possess requisite educational qualification i.e. she has not passed 10th standard examination which is the minimum qualification prescribed by the Petroleum Company.

3 According to the petitioner, since the advertisement does not lay down any criteria in respect of educational qualification, the same cannot be made applicable in case of the petitioner. It is also contended that so far as the land for setting up the outlet is concerned, the petitioner could have been offered an opportunity to point out another land.

4 So far as the first contention raised by the petitioner in respect of educational qualification is concerned, admittedly, the petitioner does not fulfill required qualification criteria laid down under the brochure, prescribing unified guidelines for selection of LPG distributors. Apart from the conditions laid down in the advertisement, administrative guidelines prescribed by the Petroleum Company also need to be adhered while selecting a candidate. The advertisement does refer to the guidelines prescribed by the Petroleum Company. Clause 8(A)(b) of the guidelines prescribes that the applicant should have passed minimum 10th standard examination or equivalent from any recognized board. According the petitioner, the guidelines do not

have statutory force and as such could not be construed as mandatory. The guidelines prescribed by the Petroleum Company need to be observed while making selection process. In the event of noticing any arbitrariness an appropriate view deserves to be taken.

5 Learned counsel for the petitioner has placed reliance on a Judgment delivered by the Supreme Court in the matter of **Narendra Kumar Maheshwari versus Union of India and others (1990 (Supp) SCC 440**. Counsel for the petitioner has invited our attention to paragraph No.106 of the reported Judgment, wherein, it has been observed by the Supreme Court that the guidelines being not statutory in character are not enforceable. The observation is in reference to the Judgment in the matter of **G.J. Fernandez v. State of Mysore**. It is further observed by the Supreme Court that policy is not a law and a statement of policy is not prescription binding criterion. In the matter of **R. v. Secretary of State, ex parte Khan (1985 1 All ER 40)** the Court held that a circular or self made rule can become enforceable on the application of persons if it was shown that it had created legitimate expectation in their mind that the authority would abide by such a policy/guideline. However, the doctrine of legitimate expectation applies only when a person

had been given reason to believe that the State will abide by certain policy or guideline on the basis of which such applicant might have been led to take certain actions. This doctrine is akin to the doctrine of promissory estoppel. In the reported matter, the Statute provides that the Rules may be made by the Central Government only and further more in view of section 6(2) of the Act, the competent authority has the power and jurisdiction to condone any deviation from even the statutory requirement proscribed under section 3 and 4 of the Act. The judicial review of these matters though can always be made where there was arbitrariness and malafide and where the purpose of an authority in exercising its statutory power and that of legislature in conferring the powers are demonstrably at variance, should be exercised cautiously and soberly.

6 From the aforesaid observations, it must be noted that the facts giving rise to the instant matter are entirely different. It has been demonstrated that the action of the petroleum company is arbitrary. It has also not been demonstrated that the guidelines are in deviation of any statutory rule or provision. The reliance placed by the learned counsel for the petitioner is thus misplaced. The petitioner has also placed reliance on the Judgment in the cases of **K. Vinod Kumar versus S.**

Palanisamy & others (2003 10 SCC 681) as well as **Dibyendu Mohan versus Hindustan Petroleum Corporation Ltd (2004 (1) BLJR 293)** and **Priyanka Pratap Singh versus Divisional Manager IBP Co. Ltd (2004 (2) BLJR 919).**

7 Though the matters relied relate to providing alternate relief, in the instant matter, even assuming that the contentions of the petitioner are acceptable on the second ground, since the petitioner does not meet the qualification requirement, no interference need be caused in exercise of extraordinary jurisdiction under article 226 of the Constitution of India. Petition is devoid of substance and stands dismissed.

(K.K. SONAWANE, J)

(R.M. BORDE, J)