

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

WRIT PETITION NO. 3660 OF 2018

Mr. Ramesh Chandrabhan Bahekar  
age major, occ Ex-Military Man & Business  
r/o Kinhola, Tq. Chikhali, Dist. Buldhana

Petitioner

Versus

1. The State of Maharashtra  
Through the District Magistrate  
Aurangabad
2. The Chief Divisional Sales Manager  
Indian Oil Corporation Ltd.  
Aurangabad Divisional Office  
Jyoti Oil Bhavan, Plot No 99  
Jyoti Nagar, Aurangabad
3. The District Collector,  
Buldhana

Respondents

Mr. A.B. Jagtap, advocate holding for Mr. V.D. Sapkal, advocate for petitioner.

Mr. S.S. Dande, A.G.P. for respondents 1 and 3.

Mr. A.P. Bhandari, advocate for respondent no. 2.

**CORAM : R.M.BORDE &**

**K.K. SONAWANE, JJ.**

**DATE : 11<sup>th</sup> April, 2018**

**ORAL JUDGMENT (Per R.M. Borde, J.) :**

1. Rule. Rule made returnable forthwith.
2. Leave to add District Magistrate, Buldhana, as party

respondent. Amendment be carried out forthwith. Learned AGP waives service of notice for added respondent.

3. Heard finally at admission stage with the consent of learned counsel for the respective parties.

4. Petitioner is objecting to the communication issued by respondent no. 2 Petroleum Company cancelling the candidature of petitioner for establishing petrol retail outlet at Kinhola, Tq. Chikhali, Dist. Buldhana.

5. Petitioner is an ex-serviceman and has record of meritorious service in Indian Army. He participated in 'Operation Raksha' during the Kargil war and has suffered bullet injury on his head as a result of which, has sustained disfigurement and the disability caused is certified to the extent of 100% by the Army Medical Board. It is pointed out that petitioner, during 'Operation Raksha', shot dead seven terrorists and, as a token of meritorious services rendered by him, the State has honoured him with 'Shourya Chakra'.

6. Petitioner, in response to the advertisement issued by the Petroleum company, tendered an application for setting up petrol retail outlet on State Highway number 24, district Buldhana. He was interviewed by the selection board on 03.11.2012. On consideration of the application tendered by petitioner, he has been issued a letter of intent on 18.03.2013. While tendering application, the petitioner has offered land to the extent of 21 Are out of gat no. 511. Alongwith the application, petitioner tendered

'No Objection' letter issued by Sant Gadgebaba Trust. It was later on revealed that the land offered by petitioner belongs to the trust and unless there is proper permission accorded by the trust authorities, it would not be permissible to set up the retail outlet in the aforesaid land. Petitioner, thereafter got executed sale-deed of an area to the extent 82 Are out of gat no. 503 from the original owner and offered 21 Are area out of the said land.

7. It is not a matter of dispute that in pursuance to the letter of intent issued in favour of petitioner, he secured finance from the financial institution and has made huge investment for setting up retail outlet. It is also not a matter of dispute that necessary 'No Objection' has been received by the Petroleum company for setting up outlet in gat no. 503, the land which was later on offered by petitioner. Thus, there is no legal impediment in setting up the retail outlet in the land offered by petitioner. The petroleum company has raised technical objection while cancelling candidature of petitioner after the petitioner was persuaded to make investment and has completed all the formalities. Though the technical objection raised by the Petroleum company could have been considered valid, in the instant matter, it would be impermissible for the Petroleum company to raise such objection after the petitioner has secured finance from the financial institution and made huge investment for setting up the retail outlet.

8. The extra ordinary jurisdiction vested in this Court under Article 226 of the Constitution of India is expected to be exercised for meeting the ends of justice and not for the purpose of allowing

perpetuation of injustice. Petitioner is a war hero who has participated in 'Operation Raksha' and has suffered 100% disability. He has also been honoured with 'Shourya Chakra' for his meritorious and exceptional services rendered to the Nation. The concession issued by the State for future survival of the war hero cannot be permitted to be taken away on such flimsy grounds. In fact, considering the record of petitioner in respect of services rendered by him to the Nation, he is entitled for something more and such technical deficiencies shall not be an impediment in confirming the benefits which the State proposes to extend as a token of gratitude for meritorious service rendered by military service personnel. Apart from this, the Petroleum company is not put to any dis-advantage by the act of petitioner in offering the alternate land for setting up of petrol retail outlet in lieu of land earlier offered while tendering application. It also need to be considered that petitioner was the sole applicant and as such, there is no question of causing any prejudice to any other individual applicant if the claim of petitioner is considered positively. On the other hand, if the impugned order is permitted to be maintained, the prejudice that would be caused to the petitioner would outweigh any inconvenience, if any, caused to Petroleum company. In this respect, decision rendered by this Court in identical circumstances in the matter of **Namdev s/o Bhimrao Bhil Vs. The Union of India and another** in Writ Petition No. 4210 of 2015 decided on 16.06.2015 can be relied upon. The decision in the aforesaid petition has been confirmed by the Honourable Supreme Court.

9. For the reasons recorded above, writ petition deserves to be

allowed and the same is accordingly allowed. Impugned communication dated 20.02.2008 issued by respondent Petroleum company is quashed and set aside. Respondents are directed to permit commissioning of the petrol retail outlet sanctioned and allotted to the petitioner as expeditiously as possible, preferably within a period of eight weeks from today. The impugned communication issued by respondent - Petroleum company is quashed. Rule is accordingly made absolute. No costs.

**K. K. SONAWANE**  
**JUDGE**

**R.M.BORDE**  
**JUDGE**

dyb