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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.2865/2018

Sow.Sunanda w/o Sadashiv Bhatagalikar,
aged 45 yrs., occu.household,
r/o Near Jakapur Colony, Metre Plot,
Patange Road, Omerga. Tq.Omerga
Dist.Osmanabad.

...Petitioner..

Versus

- 1] Indian Oil Corporation Ltd.
(A Public Limited Company),
Indian Oil Bhavan, G-9,
Ali Yavar Jung Marg, Bandra (E),
Mumbai. Through its
Executive Director, LPG.
- 2] Indian Oil Corporation Ltd.,
Aurangabad Area Office,
Abish Tower, 1st Floor,
Behind Baba Petrol Pump,
Mahavir Chowk, Aurangabad - 431001.
Through its Chief Area Manager /
Senior Manager (LPG).

...Respondents...

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Shri N.P. Patil Jamalpurkar, Advocate for petitioner.
Shri Anand P. Bhandari, Advocate for respondent nos.1 and
2.

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

DATE: 17.04.2018

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

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1] Heard learned counsel for the parties. With the consent of learned counsel for the parties, the petition is taken up for final disposal at the admission stage.

2] The petitioner is praying for quashment of the order passed by the respondent – Petroleum Company on 12.3.2018 holding the petitioner ineligible for allotment of LPG distributorship at the advertised location at Anala Tq.Paranda Dist.Osmanabad. The reason assigned for holding the petitioner ineligible is that according to the respondent – company, the petitioner has failed in 10th Standard examination, which is the minimum educational qualification prescribed under the Unified Guidelines. It is also further informed that though she has submitted mark-sheet of B.A. examination, but the same does not satisfy the eligibility criteria of 10th Standard passing from the recognized Board. The petitioner contends that she has passed final B.A. Examination conducted by Yashwantrao Chavan Open University, Nashik. The petitioner relies upon the Government resolution dated 20.5.2011, which prescribes that the students who successfully complete preparatory programme are eligible for direct entry to the first year

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B.Com. / B.A. Degree programme of Yashwantrao Chavan Open University. The petitioner contends that the process of selection requires minimum educational qualification of 10th / 12th Standard. The petitioner further contends that the qualification obtained from Yashwantrao Chavan Open University is recognized by the University Grants Commission and since the petitioner has passed the final B.A. Degree examination from the said Open University, it shall be deemed that she possesses the requisite qualification. As per the Important Note recorded under the caption "Evaluation Procedure", a candidate after successfully completing Preparatory and F.Y. B.Com. of the University shall be considered to have acquired SSC / HSC equivalent qualification. Important Note (2) read with paragraph no.4.1 (Eligibility Criteria) prescribed by the Petroleum Company leads to the conclusion that the petitioner who has acquired B.A. Degree from Yashwantrao Chavan Open University, which University has been accorded recognition by the University Grants Commission, shall be deemed to be eligible and fulfills the eligibility criteria. It cannot be disputed that acquisition of B.A. Degree is a superior qualification

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than that of passing 10th or 12th Standard examination.

3] In this view of the matter, the hyper technical approach adopted by the Petroleum Company does not deserve to be approved. The petitioner shall be deemed to fulfill the eligibility criteria prescribed by the Petroleum Company and shall be held entitled as a successful candidate in view of draw of lots conducted on 13.12.2017 for awarding the LPG distributorship at the advertised location and it is accordingly directed. The respondents shall take further steps for allotment of LPG distributorship in favour of the petitioner.

4] During the pendency of the petition, for the impugned location, the Petroleum Company held re-draw of lots and it is informed that in the said process, re-draw of lots have been drawn. This Court by order dated 19.3.2018 directed the respondent – company to proceed to conduct the draw, however, not to declare the results of draw. It does appear that one applicant namely Chetan Bhimrao Shinde in Civil Application No.5294/2018 participated in the draw of lots during the pendency of the petition and claims to be successful candidate. Since the process itself is subjected to challenge in the

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instant petition and since the Court had restrained the Petroleum Company to declare the results of the draw, the intervenor does not have any entitlement to claim any relief nor he is entitled to intervene in the instant petition. The proceedings in respect of draw of lots during the pendency of the petition shall be deemed to be *infructuous* in view of the directions issued by this Court to the Petroleum Company to hold the petitioner eligible. Learned counsel appearing for the intervenor is not present. Even for the reasons recorded above, the intervenor does not have any entitlement in view of the interim orders passed by this Court during the pendency of the petition. Hence, Civil Application No.5294/2018 for intervention stands rejected.

5] Rule is made absolute in the aforesaid terms with no order as to costs.

(K.K. SONAWANE, J.)

(R.M. BORDE, J.)