

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

**WRIT PETITION NO. 5176 OF 2017**

Amit Vitthalrao Rathod

.. **Petitioner**

**Versus**

The Hindustan Petroleum Corporation Ltd.,  
Through its Chief Manager and others

.. **Respondents**

Shri Dhananjay M. Shinde, Advocate for the Petitioner.

Smt. Anjali Dube (Bajpai), Advocate for Respondent No. 1.

Respondent Nos. 2 and 3 served.

Shri Sachin S. Deshmukh, Advocate for Respondent No. 4.

**CORAM : S. V. GANGAPURWALA &  
A. M. DHAVALA, JJ.**

**DATE : 25<sup>th</sup> April, 2018**

**PER COURT :**

1. The petitioner challenges the communication issued to him, cancelling his selection as a retail outlet dealer.
2. We have heard learned counsel for the petitioner and learned counsel for the respective respondents.
3. On 16.06.2016, after opening of the bids, the petitioner was declared as selected. Subsequently, it appears that respondent no. 4 filed complaint with the Dealer Selection

Complaint Redressal Forum. Pursuant to the complaint under order dated March 15<sup>th</sup>, 2017, petitioner was communicated that his selection declared on 16.06.2016 for the retail outlet dealership is withdrawn as the land offered by him is not adjacent to State Highway no. 217.

4. It is not disputed by either of the parties that before communication dated March 15<sup>th</sup>, 2017, neither notice was issued to the petitioner nor the copy of complaint was given to the petitioner and straightway the impugned communication was issued. Reliance is placed on Clause 17 of the brochure for selection of outlets for regular and rural retail outlets to suggest that issuance of notice before possession is not contemplated.

5. The petitioner was issued letter dated 16.06.2016 intimating him that he is declared as selected. Subsequently, on complaint of respondent no. 4, the respondents investigated and called for some reports from the Revenue Officers and according to the respondents, the land of the petitioner is not adjacent to State Highway no. 217. The order was detrimental and prejudicial to the interest of the petitioner. In such a case,

minimum requirement of principles of natural justice were required to be adhered to. The petitioner was neither given any notice of investigation being made, nor before issuing the impugned communication the petitioner was made known about the deficiency. Opportunity could have been granted to the petitioner to put forth his stand on the basis of the complaint received from respondent no. 4. The impugned communication certainly is in transgression of the principles of natural justice, thereby resulting into arbitrary action. The arbitrariness is antithesis to the rule of law, fair play, justice, equity and good conscience.

6. It is submitted that respondent no. 4 is already issued with the Letter Of Intent and has commenced the retail outlet.

7. Considering the above circumstances, we pass the following order -

### **ORDER**

I] The impugned communication dated March 15<sup>th</sup>, 2017, be treated as show cause notice to the petitioner. The petitioner may file his say to the said communication.

II] The petitioner has now all the information i.e. the detailed findings of the Dealer Selection Complaint Redressal order (*Page 136 and 137*).

III] After receiving the say of the petitioner the Dealer Selection Complaint Redressal Forum, shall take appropriate decision upon it.

IV] Till the said decision is taken afresh, the position as on today shall be maintained.

8. Writ Petition accordingly stands disposed of. No costs.

**[A. M. DHAVAL, J.]**

**[S. V. GANGAPURWALA, J.]**

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