

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

WRIT PETITION NO.4712 OF 2018

(Rekha Anand Kshirsagar Vs The State of Maharashtra and
another)

Mr.A.J.Talhar, Advocate h/f Mr.S.S.Deve, Advocate for the
petitioner

Mr.C.S.Kulkarni, AGP for the respondent/State

Mr.A.P.Bhandari, Advocate for respondent No.2

**CORAM : PRASANNA B. VARALE &
S.M.GAVHANE, JJ.**

DATED : 15.06.2018

P.C. :-

. Heard Mr. Talhar, learned counsel h/f Mr.Deve,
learned counsel appearing for the petitioner at length.

2. The petition is before this Court challenging
the letter communication dated 02.05.2018 issued by
respondent No.2/Indian Oil Corporation Limited through
its Chief Area Manager. By way of interim prayer the
petitioner is seeking stay to the process of allotment of
LPG Distributorship at place Nathapur, Dist. Beed.
Contesting respondent NO.2 was served by way of private
notice by the petitioner to the Mr. Bhandari, learned
counsel appearing for respondent No.2 and reply is also
filed by respondent NO.2 opposing the petition.

3. Brief facts giving rise to the present petition, can be summarized as follows:

4. The petitioner before us is an entrepreneur. It is not in dispute that respondent No.2 (hereinafter referred to as 'the Company' for the sake of brevity). Respondent No.2 is the company and invited applications form from the interested persons for allotment of LPG Distributorship. In response to the said invitation issued by way of paper proclamation and more particularly in an advertisement in local news paper Lokmat the petitioner submitted her claim by way of application through online process. Copy of application is placed on record with the petition at Exh.A. It would be material for our purpose to refer Appendix-2 of the application. It shows, name of the owner of the land/lease holder, relationship with the applicant, date of registration, address of the location, Khasra/survey Nos. etc. Clause-5 of the application is also material it deals with location for the showroom and again in clause-5, the applicant submitted her details referring to the land i.e. Khasra/Survey No.211 at post Nathapoor, Tq. & Dist. Beed. A letter was issued in favour of the petitioner dated 07.12.2017 by the Company informing the petitioner

that she has been declared as successful candidate in draw of lots conducted on 06.12.2017. The petitioner was then requested to submit various documents. Perusal of the documents placed on record show that on 13.12.2017 the petitioner submitted the documents. These documents were ID Proof, APP, Pan Card, Sanad/TC, Appendix-2 etc to show that the petitioner is a person from non-crimilayer. Then there is also receipt placed on record to show that the petitioner deposited certain amount. By way of communication letter dated 02.05.2018 the husband of the petitioner Mr. Anand Kshirsagar was informed as under:-

“Please refer to your application (Serial No.IOC03214163403102017) for award of above-mentioned LPG Distributorship.

We regret to inform you that upon field verification credentials of your wife Smt. Rekha Anand Kshirsagar selected in draw held at Collectorate on 06.12.2017, it was observed that same piece of land bearing Gut no.211 has been offered by you for LPG godown and showroom and your spouse Smt. Rekha Anand Kshirsagar (application serial no.IOCO3214184917102017) for the advertised location Nathpur, District Beed.

As per selection guidelines of clause No.9.1.10(h): “same piece of land cannot be offered by more than one applicant for a particular location against the advertisement. In case, it is found at any stage that the same piece of land for godown or same piece of land for showroom has been offered by more than one applicant for the same location of the advertisement, then all such application would be rejected or if selection has been done, then the same would be cancelled.

In view of above, your candidature is also rejected alongwith candidature of your spouse Smt. Rekha Anand Kshirsagar in line with the guidelines mentioned above.”

5. Mr. Talhar, learned counsel appearing for the

petitioner in his submission laid heavy attack on the communication which is impugned in the petition by submitting that the decision of the company communicated by the impugned communication is based on assumption and presumption and on erroneous reading of the material. It was bone of the contention of Mr. Talhar, the learned counsel appearing for the petitioner that land Khasra No.211 is a large piece of land. It was further submission of the Mr. Talhar, learned counsel appearing for the petitioner that in this large piece of land the petitioner and her husband owned and possessed the pieces of land as such the claim of the petitioner could not have been rejected merely on the ground that the lands of the petitioner and her husband were the part of a big land piece namely Khasra No.211. The submissions was that the words referred to in the communication says same piece of land and as the petitioner and her husband owned different piece of the land of the same Khasra number, the the impugned communication be quashed and set aside.

6. The petition is opposed by Mr.Bhandari, learned counsel. Our attention was invited to the reply filed on behalf of the company. As the issue involved in the petition being limited one, we took up the petition for hearing for final disposal at the stage of admission by

consent of the parties.

7. On perusal of the material placed on record as well as in view of the submissions of the learned counsel Mr. Bhandari appearing for the respondent No.2/Company and the documents placed on record, we are of the opinion that though the submissions of Mr. Talhar, learned counsel appearing for the petitioner looks attractive at the first blush, hold no water. We are unable to accept the submissions of Mr. Talhar, learned counsel appearing for the petitioner. The impugned communication clearly stated that the company is reserving its right to reject the application if same is piece of land shown by two applicants. It is also informed to the petitioner that in the application of the petitioner as well as in the application of Mr. Anand Kshirsagar the land is shown as the land Khasra No.211. The application of the husband of the petitioner Anand Kshirsagar is also placed on record alongwith affidavit filed by the company. The application submitted by the petitioner is placed on record with the petition and we have already referred to contents of the application. The requisite clauses are Appendix-2 and Clause-5 at the cost of repetition, we say that in the application of the petitioner Appendix-2 reference is made to the land as Khasra/Survey No.211 as well as in

the clause-5 the land is shown as Khasra No.211. Similarly the factual situation in case the application of husband is placed on record at Exh.R-1, in the appendix No.5 of application of the husband of the petitioner reference is made to the land as Khasra No.211. Though it was the submissions of Mr. Talhar, learned counsel appearing for the petitioner the husband and wife are possessing the different pieces of lands in the same Khasra No.211 and though he made an attempt to submit that when in the communication word the piece of land is used, we are unable to accept the submissions, we are of the opinion that the intention of the company in the communication while using the word piece of land was not to give a restricted meaning and a limited scope to the said words. The communication is to be read in the context of the policy of the company, that if two applications are showing the same land and if it is found at any stage as per rules of the company both these applications can be rejected by the company. If the company in view of the prevailing rules found that two applicants have shown same lands in their applications to put up their claims for obtaining Distributorship, both these applicants would not be entitled to claim the distributorship and their applications are accordingly rejected by the company.

8. On instructions Mr. Bhandari, learned counsel appearing for the respondent No.2 submitted that for the location Nathapur as the applications of the petitioner and Anand Kshirsagar were rejected, the company had drawn fresh lots and the next suitable candidate one Mr. Ganesh Pawar is selected for the distributorship. Mr. Ganesh Pawar is also from OBC category and submitted requisite documents subject to verification by the company. In view of these facts, we are not inclined to entertain the petition and it is our opinion that the petition is devoid of any merits as such the petition deserves to be dismissed and same is accordingly dismissed.

[S.M.GAVHANE, J.]

[PRASANNA B. VARALE, J.]