

Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
WRIT PETITION NO.1113 OF 2017

Prasad Rama Naik Dessai. Petitioner.

V/s.

Indian Oil Corporation Ltd. & Ors. Respondents.

Mr. D. J. Pangam, with Mr. Parikshit Sawant, Advocate for the Petitioner.

Mr. Nigel da Costa Frias, with Ms. Maria Correia, Advocate for Respondent No.1.

Mr. S. D. Lotlikar, Senior Advocate with Mr. Chaitanya Padgaonkar, Advocate for Respondents No.2 and 3.

***Coram : N.M. Jamdar &
Prithviraj K. Chavan, JJ.***

Date : 14 June 2018.

P.C.:

Heard learned Counsel for the parties. By consent of the parties, taken up for final disposal.

2. Pursuant to an advertisement issued by Respondent No.1 on 23 June 201, the Petitioner had applied for Kisan Seva Kendra Dealership at Cuncolim to Quepem, South Goa. The grievance made by the Petitioner is that, even though the Petitioner was entitled

to be granted this dealership, the dealership is proposed to be wrongly awarded to Respondent No.2. The contention of the Respondents is that the lease of the land for the pump in favour of the Petitioner, is not valid and complaints to that effect have been made to Respondent No.1-Indian Oil Corporation on 23 March 2015, thus the dealership is rightly refused. According to the learned Counsel for the Petitioner, the lease deed in favour of the Petitioner is valid and it is not cancelled by any authority or any judicial forum. It is also contended by the learned Counsel for the Petitioner that in fact, the lease in favour of Respondent No.2, is not valid.

3. It is not possible for us to decide the questions of title, under Article 226 of the Constitution of India and adjudicate various disputed questions of fact sought to be raised by the Petitioner and the Respondents No.2 and 3. We will restrict the enquiry to the decision making process of Respondent No.1-Indian Oil Corporation, a public body.

4. Respondent No.1 has filed an affidavit-in-reply setting out the procedure that is to be followed while considering the applications for dealership, along with the memorandum. Our attention is drawn to the marking system. The learned Counsel for

Respondent No.1 submitted that though Respondent No.1 does not conduct an in-depth inquiry akin to a suit while determining the rights of the applicant over the land where the dealership is sought, however, if a complaint is received in respect of the right of the applicant to the land, it has to be looked into. The learned Counsel for Respondent No.1 submitted that in the present case since the complaint was received from the lessor of the Petitioner itself that the lease in favour of the Petitioner was not valid, an inquiry committee was constituted and it was decided to give less marks to the Petitioner as per the procedure. It was submitted that since the Corporation has to consider the contingency where action by the lessor against the Petitioner would result in disruption of the work of the dealership. The learned Counsel for Respondent No.1 submitted that if any complaint is received against respondent No.2, that complaint also will have to be looked into according to the procedure.

5. The learned Senior Advocate appearing for Respondent No.2 submitted that there is no cloud on the title of Respondent No.2 and there is no complaint made by the Petitioner against Respondent No.2, to the Corporation. Learned Counsel for the Petitioner submitted that there is a suit pending.

6. As we are examining the action of Respondent No.1, it is not unreasonable, in fact it is essential for the Respondent No.1 to be circumspect before granting the dealership in such case as, any dispute over the title of the land will affect the functioning of the pump and consequently the distribution of the oil/fuel. Therefore, the Respondent No.1 had to inquire into the complaints made against the applicants and in fact, such a procedure has already been prescribed. After taking cognizance of the complaint, Respondent No.1 has taken a decision by adopting a marking system. These steps cannot be said to be arbitrary.

7. So far, the allotment is not made in favour of Respondent No.2, the learned Counsel for the Petitioner submitted that the Petitioner will make a representation to Respondent No.1 setting out the lacunas in the title of the Respondent No.2. If such grievances are made, as has been done in case of the Petitioner, Respondent No.1 will have to follow the similar methodology before taking a final decision. It is open to the Petitioner to make a complaint and this order shall not be construed as granting specific liberty to the Petitioner to make complaint to Respondent No.1. If any complaint is made to Respondent No.1, it will be dealt with as per the procedure which Respondent No.1 has evolved, before taking a final

decision as regards the allotment.

8. In view of this position, no further orders are required to be passed. The Writ Petition is disposed of.

Prithviraj K. Chavan, J.

N.M. Jamdar, J.