

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 4511 OF 2018

Sou.Julekha Liyakat Mujawar .. Petitioner
Vs.
Indian Oil Corporation Ltd. and ors. .. Respondents

Mr.Hardas i/b Mr.Kishor Patil, for the Petitioner.
Mr.Sunil Gangan a/w Mr.Jayesh Mistry & Mr.Shantanu Kalekar
i/b RMG Law Associates, Respondents No.1 & 2.
Mr.Tejpai Ingale, for Respondent No.3.
Mr.D.A.Dubey a/w Mr.D.R.Shah, Respondent No.4 - for Union of
India.

**CORAM : SHANTANU.S.KEMKAR &
M.S.KARNIK, JJ.
DATE : 11th APRIL, 2018**

ORDER (PER M.S.KARNIK, J) :

1. By filing this Petition under Articles 226 & 227 of the Constitution of India, the petitioner challenges the order dated 16/03/2018 issued by respondent No.1 by which the petitioner's grievance opposing the selection of the respondent No.3 for the dealership of Kisan Seva Kendra (for short 'KSK') at location Kagal - Ichalkaranji Road, Taluka – Kagal, Dist. Kolhapur is

rejected.

2. Briefly stated, on 17/09/2011 respondent No.1 invited applications for petrol/diesel retail outlet dealership. The petitioner applied for allotment of the retail outlet on 14/10/2011 with all relevant and necessary documents. The petitioner prior to filing of this Petition filed Writ Petition No. 5102 of 2015 challenging the ranking granted to her in the selection process. This Court was pleased to dispose of the said Writ Petition by directing respondent No.1 to consider the objections raised by the petitioner and pass a fresh order.

3. It is the case of the petitioner that despite the order passed by this Court and without taking into consideration the objections raised by the petitioner, by the impugned order dated 16/03/2018 the claim of the petitioner is rejected and the petitioner is retained at serial no. 3 in the select list.

4. Learned Counsel for the petitioner urged that the

order passed by respondent No.1 is a mechanical order without due consideration of the objections raised by the petitioner. He invited our attention to clause 10(h) of the brochure dated 28/08/2012 for selection of dealers. Clause 10(h) of the said brochure reads thus :

10(h) No additional documents whatsoever will be accepted or considered after the cut off date of the application.

5. In his submission, the respondents have accepted and considered the additional documents submitted by respondent No.3 after the cut-off date of the application. Learned Counsel further submits that even allocation of the marks was not in accordance with the parameters prescribed by the brochure. In his submission, the land belonging to the respondent No.3 does not fall in the category of 'having clear title' or 'having land on long lease (registered) for a minimum period of 19 years and 11 months' as on the date of application. In his submission, the documents submitted by respondent No.3 have not been evaluated and verified properly by respondent No.1. In his submission clause 14(a) which provides the

meaning of “owned land” does not cover the case of the respondent No.3. Learned Counsel invited our attention to the certificate dated 27/09/2012 issued by Talathi to support his contention that the exact shareholding of the respondent No.3 is not clear.

6. The next objection of the learned Counsel for the petitioner is that land belonging to the respondent No.3 falls in green zone and hence she was not eligible.

7. We have gone through the impugned order dated 16/03/2018. Based on the documents and materials on record, respondent No.1 has arrived at a finding that the area offered by the respondent No.3 is in consonance with the requirement of the advertisement and extract of demarcation has been enclosed with the application.

8. Even as regards the objection raised by the learned Counsel that the land belonging to the petitioner was declared

to be in green zone, it is found by respondent No.1 that the said lands offered are agricultural lands and only after NA permission and NOC is granted by the concerned Authority can any retail outlet be developed. It is further observed that any land under the green zone or any other classified zones, the due procedure will be insisted for obtaining due clearance of the Authority concerned. We find that the respondent No.1 is justified in their stand that the same does not affect the selection process and IOC advertisement does not preclude offer of agricultural lands for development of petrol pump.

9. As regards the objection of the learned Counsel for the petitioner that land offered by respondent No.3 should be considered a “jointly owned” and not as “demarcated land”, respondent No.1 has found that land share of respondent No.3 is larger than IOC requirement and there are documents on record to show demarcation of the portion of land to be given for KSK. The documents clearly show the demarcation of the lands to be given for KSK. It is on this basis the respondent no.1

has come to the conclusion that the land is treated as owned land and evaluation is done accordingly.

10. We do not find any substance in the argument of the learned Counsel for the petitioner that the documents have been supplied by respondent No.3 after the submission of application form. No doubt, clause 10(h) of the brochure provides that no additional documents whatsoever will be accepted or considered after the cut-off date of the application. We however find that order impugned clearly records that the dealer selection brochure 2011 has been applied strictly. It is observed that the land offered with documents in both the applications of respondent No.3 were correctly evaluated as “owned land”. It is not the case of the petitioner that the additional documents filed after the date of filing of the application formed the basis of the decision to allot the petrol pump. The contention of the petitioner that clause 10(h) of the brochure is violated can only be stated to be rejected.

11. Based on the documents on record if the respondent No.1 has found the candidature of respondent No.3 more suitable, it is not possible for us to substitute our opinion and arrive at a different conclusion by re-appreciating the materials on record. Respondent No.1 has upon due consideration of the other objections raised by the petitioner found the allegations unsubstantiated. We are satisfied that based on the materials on record and documents produced, the respondent No.1 has arrived at findings which cannot be said to be perverse or illegal.

12. In our opinion, there is no reason to interfere with the well reasoned order passed by respondent No.1. The Writ Petition is accordingly dismissed with no order as to costs.

(M.S.KARNIK, J.)

(SHANTANU.S.KEMKAR, J.)