

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

WRIT PETITION NO. 3213 OF 2018

Mangesh s/o Madhukar Gaikwad

...Petitioner

Versus

The Union of India and Ors.

...Respondents

Mr. D.R. Shelke, Advocate for Petitioner

Mr. S.B. Deshpande, Assistant Solicitor General for Respondent
No.1

Mrs. Anjali Dube, Advocate for Respondent No. 2

**CORAM : S.V. GANGAPURWALA AND
A.M. DHAVAL, JJ.**

DATE: 15th JANUARY, 2019

PER COURT

1. The candidature of the petitioner for the dealership of the Retail Outlet is rejected.

2. Mr. Shelke, the learned Counsel for the petitioner submits that the respondents have ignored the guidelines under letter dated 9th March, 2016. While rejecting the candidature of the petitioner, the respondents relied on the guidelines under letter dated 4th March, 2016. However, did not consider the subsequent letter dated 9th March, 2016, which prescribes for allowing the candidate to offer alternate land if the original land allotted is not suitable, in case of advertisements released in the

year 2014-2015. The learned Counsel submits that the petitioner was not aware of the land offered by the petitioner to be a subject matter of dispute. However, upon getting the knowledge, the petitioner had offered the alternate land in the same stretch as required in the advertisement.

3. Smt. Dube, the learned Advocate for Respondent No. 2 submits that the lands are evaluated on the basis of the same offered by the candidates. There were three applications received for the same place. After rejection of the candidature of the petitioner, two other candidates remained in the fray. As the land offered by the petitioner was under dispute, the same was not valid land. In view of that, the candidature has been rightly rejected. The guidelines under letter dated 09.03.2016 would not be applicable to the petitioner as the petitioner was not the sole candidate nor the candidature of all the applicants was rejected. The land offered by the other two applicants was found to be valid.

4. The amendment in the Dealer Selection Guidelines with regard to the relaxation to offer the alternate land prescribes four conditions. The said letter reads thus -

(i) In case the applicant has not offered the land in the application or if the offered land was rejected due to not meeting the said laid down criteria, then the applicants shall be given an opportunity to offer land or alternate land (as the case may be) in the advertised location/stretch provided the applicant meets all other eligibility criteria. The applicant has to offer the land/alternate land within a period of 3 months from the date of offer letter. In case the applicants fail to offer land/alternate land within the specified period of 3 months, the offer would be withdrawn and application rejected under intimation to the applicant. The relaxation will be applicable to SC/ST category only.

(ii) The above procedure (para (I)] may be adopted/implemented for all such cases :

(a) Involving sole applicants.

(b) Pertaining to SC/ST women candidates

(c) Where LOI is yet to be issued to be processed

(d) In SC/ST category cases where applicants were rejected on the aforesaid ground and NIL result was declared.

This is applicable only in case of advertisements released in 2014-15 under the new Dealer Selection Guidelines for Retail Outlet dealerships.

5. It is undisputed that the advertisement was issued on 10th December, 2014. The said guidelines under letter dated 09.03.2016 is applicable to the advertisements released in 2014-2015.

6. It is not disputed that the letter of intent was yet to be issued to be processed. The case of the petitioner would be covered under the same.

7. In view of the above, the respondent No. 2 should have given an opportunity to the petitioner to offer alternate land.

8. Considering the above, we set aside the impugned communication. The petitioner is given four weeks time to offer the alternate land. If the petitioner offers the alternate land within a period of four weeks from today, then respondent No. 2 may evaluate the alternate land offered and consider the candidature on its own merits. If the petitioner fails to offer the alternate land within four weeks, then his candidature shall be deemed to be rejected.

9. The writ petition is accordingly disposed of. No costs.

10. Parties to act upon the authenticated copy.

(A.M. DHAVAL, J.) (S.V. GANGAPURWALA, J.)

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