

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

916. WRIT PETITION No. 7255 of 2019

Baliram S/o Madhav Nawlekar,
age 38 years occupation business & Agri.
R/o Betmogara Taluka Mudkhed Dist. Nanded.

... Petitioner.

VERSUS

1. Indian Oil Corporation
through : the Chairman,
Indian Oil Bhavan, G – 9, Ali Yavar Jung Marg,
Bandra East, Mumbai, Maharashtra.
2. The Chief Area Manager,
Indian Oil Corporation Ltd.,
Indane Area Office, Abhish Tower,
1st floor, behind Baba Petrol Pump,
Mahavir Chowk, Aurangabad 431 001
3. Uttam S/o Rambhau Bansode,
age 46 years occupation agriculture
R/o near Datta Mandir, House No. 3150,
Bhaktapur road, Deglur Taluka Deglur
Dist. Nanded – 431717

...Respondents

*Mr. P.R. Katneshwarkar, Advocate, holding for Mr. G.A. Gadhe,
Advocate for petitioner*

Mr. A.P. Bhandari, Advocate for respondents No. 1 & 2

CORAM : PRASANNA B. VARALE,
AND
R. G. AVACHAT, JJ.

DATE : 19th July, 2019

ORAL JUDGMENT:

1. Heard Mr. Katneshwarkar, learned Counsel appearing
for the petitioner.

2. The petitioner challenges the allotment of LPG distributorship granted in favour of respondent No.3 at the instance of respondent No.1-Company. As the copy of the petition was duly served on respondent No.2 – Chief Area Manager, Indian Oil Corporation Limited, Indane Area Office, Aurangabad (hereinafter referred to as the 'corporation' for the sake of brevity), for respondent No.2 and for respondent No.1 affidavit-in-reply is filed responding the contentions raised in the petition. In view of the fact that the matter deals with the prerequisites for grant of distributorship and this would be governed by the settled norms of the company under its brochure and these norms are made known with a specific reference in the advertisement that the desirous candidates are requested to go through the brochure, we deem it appropriate to take the petition for hearing/disposal with consent of learned Counsel Mr. Katneshwarkar for the petitioner and Mr. Bhandari, learned Counsel, appearing for the corporation.

3. Learned Counsel Mr. Katneshwarkar firstly invited our attention to the copy of the advertisement placed on record at Exh. A to submit that the desirous candidates were called upon to submit their claim for the places referred to in the advertisement and the petitioner was one of such desirous candidates for the place/location, which finds place at serial No. 185, namely,

Betmogara Taluka Mukhed Dist. Nanded, of the category of distributorship to be allocated under the captioned rules. In response to the advertisement, the petitioner submitted his application. Copy of the application is placed on record at Exh. 'B'. The list was published by the corporation under the caption "List of applicants found eligible for draw for Selection of LPG Distributor". Name of the petitioner finds place at serial No. 15. It is the submission of the learned Counsel Mr. Katneshwarkar appearing for the petitioner that the petitioner was hopeful to have the decision in favour of the petitioner as he had complied with the requisite criteria and was also shown in the list of applicants found eligible, but to the surprise of the petitioner, the claim of the petitioner was not considered and, on the contrary, the distributorship was awarded in favour of respondent No.3. It is then submitted by Mr. Katneshwarkar, the learned Counsel for the petitioner that the petitioner then collected certain information and found respondent No.3 has subsequently purchased the land at Dhamangaon Taluka Mukhed. The document to that effect was registered on 3rd January, 2019. It also came to the knowledge of the petitioner that respondent No.3 is not resident of said location - Betmogara. On receiving this information, the petitioner immediately approached the respondent-corporation by submitting a complaint application on

3rd April, 2019 requesting the corporation to cancel the distributorship awarded to respondent No.3 or else the petitioner would avail appropriate remedies including approaching the court of law. On receiving this complaint application, the corporation immediately responded by communication dated 9th April, 2019. The relevant part of the reasons being assigned in the order read, thus;

“ Vide your above complaint you have stated that Shri Bansode has constructed godown on some other land which is not shown in the application form.

In this regard, we would like to inform you that the land for godown offered by Shri Bansode in the application was found suitable in the field verification conducted. Subsequently, LOI was issued to Shri Bansode in the location Betmogra, District Nanded. After issuance of LOI, Shri Bansode purchased own land which is found suitable as per Unified Guidelines. As per clause no. 8.A.j of Brochure of Unified Guidelines, June 2017, candidate can offer alternate land after issuance of LOI provided land offered in the application is found suitable during field verification.”

4. Mr. Katneshwarkar, learned Counsel appearing for the petitioner, vehemently submitted that the respondent-corporation ought not to have granted the distributorship to respondent No.3 when respondent No.3 offered his land to the corporation by purchasing it sometime in the year 2019 and, more precisely, on 3rd January, 2019. The second ground raised by Mr.

Katneshwarkar is , respondent No.3 Mr. Uttam Rambhau Bansode is not even resident of village Betmogara, for which advertisement was issued calling upon candidates for grant of the distributorship. On these grounds, Mr. Katneshwarkar submits that the action of the corporation is unsustainable. As such, the petition be allowed.

5. Mr. Bhandari, learned Counsel appearing for the respondents-corporation opposed the submissions of Mr. Katneshwarkar on the basis of requisite norms referred to in the brochure as well as placing reliance on the affidavit-in-reply. Mr. Bhandari invited our attention to the prerequisites. Copy of the brochure is placed on record at page No. 17. Initially, Mr. Bhandari, learned Counsel appearing for the corporation, submitted that the complaint filed by the petitioner is at a belated stage. It was submission of Mr. Bhandari that the draws of lots for eligible candidates were drawn on 31st August, 2018 and the complaint was submitted by the petitioner on 3rd April, 2019. (It seems that the complaint was filed on 3rd April, 2019 but by inadvertent typographical error the document placed on record at Exh. 'J' i.e. copy of the complaint refers to the date 30/04/2019. Considering the sequence of the event that the communication i.e. rejection order is dated 9th April 2019, we have reason to say that the date shown on the document Exh. 'J'

is a typographical error). Mr. Bhandari then by inviting our attention to clause 27 of the brochure submitted that the complaint was at much a belated stage. Sub-clause (e) of Clause 27 of the brochure reads, thus,

“(e) Complaints will be entertained only if it is received by the concerned office of the OMC within 30 days from the date of declaration of draw result.”

6. Mr. Katneshwarkar, learned Counsel for the petitioner, vehemently submitted that clause 27 (e) cannot be a rider for the petitioner for the fact that the petitioner got the knowledge of purchase of land by respondent No.3 sometime at the end of March, 2019 and immediately i.e. on 3rd April, 2019 the complaint is submitted to the corporation.

7. Mr. Bhandari, learned Counsel for the respondents-corporation submitted that even apart from clause 27(e), there are other prerequisites referred to in the brochure and the respondents-corporation acted as per the prerequisites referred to in the brochure. Mr. Bhandari then invited our attention to submit that the brochure nowhere states that a candidate, who has submitted his claim for the rural areas, must be resident of that area. By inviting our attention to the brochure, Mr. Bhandari submitted that such prerequisite is only for distributorship to be offered for 'Durgam Khsetra'. By this submission, Mr. Bhandari

invited our attention to clause 15(c) and, more particularly, sub clause (c) under the caption 'inter se' priority in draw of lots for *Durgam Kshetriya Vitrak*'. Thus, it is submitted by Mr. Bhandari that the ground raised by the petitioner that respondent No.3 ought to have been the resident of Betmogara, holds no water in view of the policy framed by the corporation and reflected in the brochure.

8. Then Mr. Bhandari invited our attention to clause 8 of the brochure under the caption 'ELIGIBILITY CRITERIA FOR APPLICANTS'. The sub-caption reads, thus,

“For locations in States/UTs except Kerala State

i. For Gramin Vitrak the candidate should 'own' a plot of land of minimum dimensions 21 Metre X 26 Metre within 15 km from the advertised location.”

9. It is then submitted by Mr. Bhandari, learned Counsel appearing for the corporation that the land offered by respondent No.3 in the application was already found suitable in field verification conducted by the corporation and respondent No.3 was permitted to offer the other alternate suitable land after issuance of LOI and respondent No.3, as such, after receipt of the letter of intent, offered another alternate suitable land and this exercise was permissible under the brochure. As such, there was no reason for the corporation to turn down the claim of

respondent No.3, as submitted by the petitioner. Mr. Bhandari submits that this very fact is made known to the petitioner in the communication dated 9th April 2019. Thus, the petitioner cannot submit before this Court that by communication dated 9th April, 2019 the petitioner was caught unaware and also cannot say that the ground raised by the corporation is only supplanted in the affidavit in reply. Considering the documents placed on record and more particularly, the prerequisites forming the part of the brochure and more particularly, the advertisement, wherein a reference is made to this brochure, we are of the opinion that the communication dated 9th April, 2019 cannot be faulted with.

10. The corporation committed no error in allotment of the distributorship to respondent No.3 by following its modalities and procedural aspects as per the procedure.

11. The petition, thus, being meritless deserves to be dismissed and the same is accordingly dismissed at this stage.

(R. G. AVACHAT)
JUDGE

(PRASANNA B. VARALE)
JUDGE.