

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 11594 OF 2019

Rabbani Abdul Hamid Patel,
Age: 42 years, Occ: Agri.,
R/o: Near Water Tank,
Primary Health Center, Sector-12/B-19,
Lamjana, Tq. Ausa, Dist. Latur.

...PETITIONER

VERSUS

1. The Union of India,
Through Secretary,
Ministry of Petroleum & Natural Gas,
New Delhi.
2. Bharat Petroleum Corporation Ltd.,
Regional Office,
12/E & F, Maker Towers, Cuffe Parade
Post Box No. 19949, Mumbai -400005.
3. Bharat Petroleum Corporation Ltd.,
Through Territory Head,
TM Retail, BPCL POL Depot,
Near Pakani Railway station,
Pakani Post, North Solapur,
Solapur.
4. Sohel Maheboob Shaikh,
Age: 26 years, Occ: Agril.,
R/o: Sohel Manjil, Sale Galli,
Latur, Tq. & Dist. Latur.

...RESPONDENTS

Mr R.P. Adgaonkar, Advocate for Petitioner
Mr. S.B. Deshpande, Assistant Solicitor General
for Respondent No. 1
Mr A.P. Bhandari, Advocate for Respondent Nos. 2 and 3
Mr P.P. More, Advocate for Respondent No. 4

**CORAM : PRASANNA B. VARALE AND
ANIL S. KILOR, JJ.**

DATE : 07th NOVEMBER, 2019

ORAL JUDGMENT : (Per Anil S. Kilor, J.)

1. The respondent Oil Company declared the petitioner, ineligible for setting up retail outlet dealership, on the ground that a condition to attach consent from all co-owners of the land as per 7/12 extract along with application, has not been complied with by the petitioner. The legality and correctness of the same is assailed by the petitioner in this petition, on the ground that said condition is not applicable to his case. Thus, the whole controversy revolves around the question whether the condition of submitting consent from all co-owners of the land as per 7/12 extract in a given formate as per guidelines, is applicable to the case of the petitioner ?

2. Heard the learned counsels Shri R.P. Adgaonkar, for the petitioner, Shri S.B. Deshpande, Assistant Solicitor General for Respondent No. 1 - Union of India, Shri A.P. Bhandari, for respondent No. 2 and 3 and Shri P.P. More, Advocate for Respondent No. 4.

3. Brief facts of the present case, which are necessary to decide the above referred question involved in the present case, are mentioned henceforward.

4. The respondent – Bharat Petroleum Corporation issued a brochure dated 24.11.2018, *inter alia* issuing guidelines on selection of

dealers for regular and rural retail outlets through draw of lots/bidding process. The relevant clause for the present case, is clause No. 4 (v)

(j) (5) which reads thus -

S. No.	Situation of ownership	Share of applicant in land	Additional documents required	Evaluation as
GROUP 1				
1	Self	Full	Nil	Owned
2	Self with members of family or owned exclusively by family members	Part/Nil	Consent letter in the form of affidavit from members of family – Appendix III A	Owned
3	Self with other owners	Part	If the share of the applicant and/or family members is more than or equal to land required by the Company. Consent letter on stamp paper or an affidavit or Power of Attorney from all Co-owners(s) should be provided Appendix-III A	Owned
	Family members with other owner(s)	Nil		
	Self with family members & other owners	Part		
4	Land owned by Government/Semi-Government bodies.	Full	Allotment letter from the Government/Semi-Government bodies in the name of Self with specific mention for use of petrol pump	Owned
GROUP 2				
5	Land owned by third party in part or full	Part/Nil	Consent letter in the form of affidavit/Power of Attorney from other owner(s). Appendix III A	

5. The respondent Oil Company in pursuance to above referred brochure issued advertisement dated 25.11.2018, in response to which

the petitioner submitted online application from open category, with all requisite documents along with necessary charges, on 19.12.2018, for the location Lamjana Pati towards AUSA on LHS within 1 km. Dist. Latur.

6. The petitioner to fulfill the criteria in respect of land and to establish his title over the land, submitted 7/12 extract of land Gut No. 86 admeasuring 11.5.00 hector. In the said 7/12 extract, many names appear as owners including the name of the petitioner and against his name, land admeasuring 0.30.00 hector is separately shown as owner. Similarly against other names, their respective share is shown.

7. The petitioner being exclusive owner to the extent of his share shown in 7/12 extract, he did not submit consent of co-owners as per 7/12 extract. The respondent – Oil Corporation however for the said reason, held the petitioner ineligible which is assailed in the present petition.

8. Shri Adgaonkar, learned Counsel for the petitioner submits that there is no dispute about the ownership of the land in question and as far as the condition of submission of consent from all co-owners is concerned, the same is not needed in the present petition as the petitioner is an exclusive owner of the land in question. He draws our attention to a decree passed in favour of the petitioner in Regular Civil Suit No. 580 of 2013, to demonstrate that the petitioner is an

exclusive owner of the land in question, to the extent of his share which is offered for the retail outlet of respondent company.

9 Per contra, learned Counsel for the Oil Company Shri Bhandari emphasized on the condition of submitting consent from all the co-owners in Appendix – III A as per 7/12 extract and supports the impugned decision of respondent oil company.

10. After considering the rival contentions and the record, we have reached to the conclusion that the respondent Oil Company has committed an error in holding the petitioner ineligible to participate in selection process for retail outlet of the respondent Oil Company on a highly technical ground, without considering the decree dated 24th April, 2013, passed by the Civil Court in R.C.S. No. 580/2013, in respect of the land in question.

11. Though there are several names appeared in 7/12 extract of Gut No. 86, against each name of co-owner, respective share of co-owner is mentioned. Moreover, decree passed in favour of the petitioner by the Civil Court, which leave no doubt of element in the present case that the petitioner is an exclusive owner to the extent of his share i.e. 0.30.00 hector shown against his name in the 7/12 extract. When the petitioner is an exclusive owner of the land, there is no question of submitting any consent of co-owners along with the applications. Thus, we quash and set aside the impugned

communication dated 6th September, 2019 declaring the candidature of the petitioner as ineligible in Group 1.

12. At this stage, the learned Counsel for the petitioner invites our attention to the fact that on 6th September, 2019, the respondent – Oil Company, issued a letter to one Soheli Shaikh, informing him that he was the only eligible candidate found for the location Lamjana Pati towards Ausa on LHS within 1 km. Dist. Latur from open category. In view of the fact that the decision of the respondent – Oil Company declaring the candidature of the petitioner, ineligible is being set aside by this Court, the Oil Company needs to consider the candidature of the petitioner for the said location. In view of that matter, we also set aside the letter issued to Shri Soheli Shaikh dated 6th September, 2019 and we hereby direct the respondent – Oil Company to consider the case of the petitioner on merit, for the location Lamjana Pati towards Ausa on LHS within 1 km. Dist. Latur.

13. Accordingly, we allow the present petition in above terms.

[ANIL S.KILOR]
JUDGE

[PRASANNA B. VARALE]
JUDGE

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