

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

WRIT PETITION NO.12963 OF 2018

Prashant S/o Gulabrao Kamble
Age-30 Years, Occu.Business,
R/o Pethpimpalgaon, Tq. Palam,
Dist. Parbhani – 431 720.

PETITIONER

VERSUS

1. Indian Oil Corporation Limited,
Registered Office: "Indian Oil
Bhawan", G-9, Ali Yavar Jung Marg,
Bandra (E), Mumbai – 400 051.
2. The Chief Area Manager,
Indian Oil Corporation Limited,
Indane Area Office, Abhish Tower,
1st Floor, Behind Baba Petrol Pump,
Mahavir Chowk, Aurangabad – 431 001.

RESPONDENTS

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Mr.M.U. Shelke, Advocate for the Petitioner.
Mr. A.P. Bhandari, Advocate for Respondent No.1.

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**CORAM:S.S.SHINDE &
K.K. SONAWANE,JJ.**

**RESERVED ON : 14.12.2018
PRONOUNCED ON: 08.01.2019**

JUDGMENT (Per S.S.Shinde, J.):

Rule. Rule made returnable forthwith
and heard finally with the consent of learned
counsel appearing for the parties.

2. This Petition is filed with the following prayers :-

"B. By issuing of writ of certiorari or writ or order or direction in like nature, to quash and set aside the impugned Communication dated 05/11/2018 issued by Respondent No.3; for that purpose issue necessary directions.

C. By issuance of writ of Mandamus or writ or order or direction in like nature, to direct the respondent No.2 to issue final Letter of Intent (LIO) with prior approval of competent authority in favour of the present petitioner; for that purpose issue necessary directions.

D. By issuance of writ of Mandamus or order or direction in like nature, to direct the respondent No.2 to be recommended offered plot of lands for construction of LPG godown/showroom and issue final Letter of Intent (LIO)

with prior approval of competent authority in favour of the present petitioner; for that purpose issue necessary directions."

3. It is the case of the petitioner that the respondents issued advertisement in daily Lokmat News paper dated 1st September, 2017, thereby inviting on-line applications for appointment of Liquefied Petroleum Gas (LPG) distributors in the State of Maharashtra. Village Risangaon, Tq.Loha, Dist.Nanded is reserved for Scheduled Caste (SC) category. Unified Guidelines for selection of LPG distributor will be applicable to all the locations for appointment of LPG distributors effective from June, 2017.

4. It is the case of the petitioner that on 29th September, 2017, the petitioner offered plot of land bearing Gat No.1092 (new

773) admeasuring 10 x 110 square feet situated at village Risangaon, Tq. Loha, Dist. Nanded, for 20 years on lease. As the petitioner belongs to scheduled caste category and being eligible, submitted on-line application on 1st October, 2017, for his appointment as LPG distributor at village Risangaon, Tq. Loha, Dist. Nanded under the category of Durvan Kshetriya Vitrak (DVK). The respondents by its letter dated 6th December, 2017 informed the petitioner that the petitioner has been qualified for draw of lots for selection of LPG distributorship for village Risangaon, Dist. Nanded.

5. It is the case of the petitioner that, again the respondent informed to the petitioner on 6th June, 2018 that the petitioner is qualified for on-line computerized draw of lots for selection of

LPG distributor. Thereafter the respondents have also informed the petitioner on 31st August, 2018 that the petitioner is qualified for on-line computerized draw of lots for selection of LPG distributor, and further directed to the petitioner to remain present for on-line computerized draw of lots. In draw of lots conducted by the respondents on 7th September, 2018, the petitioner is the successful candidate. On 8th September, 2018, the respondents informed to the petitioner that, the petitioner has been declared as successful candidate in draw of lots conducted on 7th September, 2018, for distribution of LPG distributor at village Risangaon, Tq. Loha, Dist. Nanded. The respondents directed the petitioner to deposit an amount of Rs.20,000/-, applicable to Risangaon location and to submit set of documents within seven days.

6. It is the case of the petitioner that as directed by the respondents, the petitioner deposited the entire amount and submitted the set of all requisite documents on 14th September, 2018. The respondents verified the documents and the information mentioned in the application. Thereafter, the respondents twice visited to the plot of lands offered by the petitioner for construction of Godown/Showroom. However, respondent no.2 vide its impugned communication dated 5th November, 2018, observed that the petitioner is not resident of advertised location of Risangaon, therefore, the petitioner is not eligible for LPG distributorship at Risangaon, Dist. Nanded. The respondents failed to appreciate the Unified Guidelines for selection of LPG Distributors and without considering the

documentary evidence, petitioner's candidature is rejected and the amount of Rs.20,000/- deposited with the respondent – Corporation stands forfeited. Hence this Writ Petition.

7. Learned counsel appearing for the petitioner submits that, in response to the advertisement, the petitioner submitted on-line application for allotment of LPG Distributorship and thereafter on various dates, the Respondents have informed to the petitioner that the petitioner qualified for on-line computerized draw of lots for selection of LPG distributor. It is further submitted that, on 8th September, 2018, Respondents informed the petitioner that he has been declared as successful candidate in draw of lots conducted on 7th September, 2018 for distribution of LPG distributor at village Risangaon and directed him to deposit

an amount of Rs.20,000/- along with requisite documents. Accordingly, the petitioner has deposited the entire amount and filed the set of documents with the Respondents. However, without considering the Unified Guidelines for selection of LPG Distributors and without considering the documentary evidence, the Respondent authorities by the impugned communication dated 5th November, 2018 rejected the candidature of the petitioner. The said action of the respondents is illegal, arbitrary and the same is not in consonance with the said Guidelines. Therefore, learned counsel submits that the Petition deserves to be allowed.

8. On the other hand, learned counsel appearing for Respondent No.1, relying upon the affidavit in reply, submits that the petitioner has applied for allotment of

Durgam Kshetriya Vitarak Distributorship. It is submitted that, as per clause 15(c) at page 35 of the Petition, there is an inter-se priority list, wherein the residents of Gram Panchayat of the advertised location are considered from priority-i, the residents of Revenue Sub-Division are considered from priority-ii, and residents of the place outside revenue sub-division are considered from priority-iii. It is submitted that, the petitioner does not claim to be belonging to village Risangaon. In the petition, so also in the agreement to lease, the petitioner has claimed to be resident of Pethpimpalgaon, Taluk Palam, District Parbhani. Whereas, in the application at page 66 in clause no.3(d) and 3(e), the petitioner claimed to be resident of Gram Panchayat Risangaon, revenue sub-division Loha.

9. It is submitted that in view of the contents of the application, the petitioner was considered from inter-se priority list, wherein there are nine other applicants. As the petitioner is the resident of place beyond the Gram Panchayat, Risangaon, the petitioner cannot be considered from priority list-1. Selection of the petitioner was based on incorrect statement. Therefor, on discovery of the above facts, the candidature of the petitioner is rightly rejected by the respondent No.1 by the impugned communication dated 5th November, 2018. It is submitted that, considering the fact that, the petitioner is not resident of village Risangaon, he was not entitled to be considered and therefore, his candidature is rejected by the respondent and hence it is prayed that, the Writ Petition may be dismissed.

10. We have given careful consideration to the submissions advanced by learned counsel appearing for the petitioner and learned counsel appearing for Respondent No.1. With their able assistance, we have perused the grounds taken in the Petition, annexures thereto, and the reply filed by respondent No.1.

11. Upon careful perusal of the documents placed on record, it clearly reveals that the advertisement was published on 31st August, 2017, and in the said advertisement, location Risangaon, Dist. Nanded was advertised for establishment of Durgam Kshetriya Vitarak Distributorship. The petitioner filed on-line application for the said location. Accordingly, the petitioner was called for draw on the basis of information furnished by him in the application. The petitioner was declared as

successful in the draw. At the time of verification of documents, it was revealed that the petitioner is not the resident of village Risangaon, but is the resident of Pethpimpalgaon, Taluka Plam, Dist. Parbhani, therefore, his candidature is cancelled by the impugned communication dated 5th November, 2018.

12. Upon careful perusal of the Brochure on Unified Guidelines for selection of LPG Distributors, Sheheri Vitrak, Rurban Vitrak, Gramin Vitrak and Durgam Kshetriya Vitrak (at Exhibit-B of compilation of the Petition), it appears that, in clause No.15 (c) (i), it has been specifically stated that the preference should be given to the applicants, who are residing in the concerned Gram Panchayat of the advertised location.

13. It is necessary to mention here that the petitioner while submitting the on-line application for getting the LPG distributorship, has specifically stated in clause 3(c) of the application that his residential address is at post Pethpimpalgaon, Tq. and Dist. Parbhani, but in clause 3(d), it has been stated that his Gram Panchayat is Risangaon, Tq. Loha, Dist.Parbhani. It is pertinent to note that the petitioner does not claim to be resident of village Risangaon. It appears that the petitioner has not given any authentic proof of his residence and has while submitting the application form, given incorrect information stating that he is resident of village Risangaon. So also the petitioner has annexed the lease agreement, the perusal of which shows that the petitioner is resident of village Pethpimpalgaon, Tq. Palam, Dist.

Parbhani. Therefore, it is crystal clear that the petitioner is not resident of Risangaon and he is resident of village Pethpimpalgaon, Tq. Palam, Dist. Parbhani. Therefore, on discovery of the above fact, the candidature of the petitioner has been rightly cancelled by the Respondent by its communication dated 5th November, 2018.

14. The second ground raised by the respondent that, at the time of submitting the on-line application, the petitioner has given information of lease agreement. However, the said lease agreement is not registered document, and it is only Notarized document. Therefore, no reliance can be placed on the said Notarized document.

15. In view of the discussion made hereinabove, no case is made out to exercise

extra ordinary writ jurisdiction under
Article 226 of the Constitution of India.
There is no merit in the Petition. Hence the
Petition stands rejected.

(K.K. SONAWANE, J)

(S.S.SHINDE, J)

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