

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

WRIT PETITION NO.14476 OF 2019

Sandip s/o Rupchand Salve,
Age 29 years, Occu. Business,
R/o Chowka, Taluka Aurangabad
District Aurangabad

..Petitioner

Versus

1. The Union of India,
through its Ministry of
Petroleum, Delhi
2. The General Manager,
Indian Oil Corporation
Limited, Indian Oil Bhavan,
G-9, All Yavar Jangmarg,
Bandra (East), Mumbai
3. The Deputy General Manager
(R.S.), Indian Oil Corporation
Limited, Aurangabad,
Divisional Office, Plot No.99,
Indian Oil Bhavan, Jyotinagar,
Aurangabad

..Respondents

Mr Shaikh Mazhar A. Jahagirdar, Advocate for petitioner
Mr A.P. Bhandari, Advocate for respondents no.2 and 3

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

DATE : 09.12.2019

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

1. Rule. Rule made returnable forthwith. With the consent of learned Counsel for the parties, petition is heard finally at admission stage.

2. By the present petition, the petitioner is challenging the communication dated 22.11.2019 issued by respondent – Indian Oil Corporation, holding the petitioner ineligible for award of retail outlet (petrol pump dealership) for the location Chowka, on either side of Aurangabad – Phulambri road.

3. Heard learned Counsel Mr Shaikh Mazhar A. Jahagirdar for the petitioner and learned Counsel Mr Bhandari for respondents no.2 and 3 – Oil Company.

4. Learned Counsel for the petitioner submits that on 25.11.2018, the respondent - Oil Company issued an advertisement, calling applications for retail outlet for various locations mentioned in the said advertisement.

5. He further points out that the location, which is the subject matter of the present petition is at Serial Number 2171 in the list of locations published, which is situated at Chowka on either side of Aurangabad – Phulambri road.

6. The learned Counsel for the petitioner further points out that the minimum area of the land, required as per the advertisement was 1575 square meters, whereas the land offered by the petitioner is 2000 square meters, which fulfills the criteria of land.

7. He further points out that the petitioner belongs to Scheduled Caste category and since the said location was reserved for Scheduled Caste category, the petitioner fulfills the said condition and also all the other conditions including condition of

having minimum land as per the advertisement and, therefore, in pursuance of the said advertisement, the petitioner applied for the said location along with all the requisite documents and payment.

8. Mr Jahagirdar, learned Counsel for the petitioner has drawn our attention to the letter dated 30.1.2019, issued by the respondent – Oil Company, informing the petitioner that the petitioner has been selected in the draw of lots conducted for selection of Retail Outlet dealership. In the said letter, it was also mentioned that the said intimation towards selection for retail outlet dealership is subject to compliance of terms and conditions of the Corporation.

9. The learned Counsel further invited our attention to the letter dated 13.8.2019, issued by the respondent – Oil Company, informing the petitioner that the Land Evaluation Committee will visit the site offered by the petitioner for its inspection. The respondent – Oil Company, vide said letter also requested the petitioner to remain present at the time of inspection of location on 23.8.2019, along with the relevant land documents.

10. The learned Counsel for petitioner further points out that on 22.11.2019, the respondent – Oil Company issued a letter thereby informing the petitioner that the Land Evaluation Committee visited the spot offered by the petitioner on 23.8.2019 and found the same to be not meeting the required norms. By the said letter, the respondent – Oil Company expressed its regret that the Oil Company has found the candidature of the petitioner as ineligible.

Thus, the contention of the petitioner is that the said decision is contrary to the record and also contrary to the requirements as mentioned in the advertisement.

11. Per contra, Mr Bhandari, learned Counsel for respondents no.2 and 3 supports the decision of the respondent – Oil Company and submits that the land, which is offered by the petitioner is situated on National Highway. There is an existing road of 30 meters i.e. 15 meters on either side from the center of the road. According to him, a portion of 30 meters from the center of the road is required to be considered as portion of right of way and, therefore, portion of 15 meters of the land offered by the petitioner, abutting to highway cannot be considered as portion of offered land and as such, in the case of petitioner, total land required would be 2100 square meters, against which the petitioner has offered only 2000 square meters of land. As such, the land offered by the petitioner is not meeting the requisite norms and consequently, the candidature of the petitioner deserves to be rejected.

12. Mr Bhandari, learned Counsel for respondent – Oil Company has invited our attention to the map drawn at the time of inspection. In the said map, 30 meters area from the center of the highway is shown as right of way and thereby 15 meters land from the land offered by the petitioner, abutting to highway was not considered as a land offered by the petitioner and as such, there is

finding recorded by the respondent – Oil Company that the land offered by the petitioner is not meeting the requirements.

13. To consider and appreciate the rival contentions of the learned Counsel for the parties, we have gone through the record and also respondent – Oil Company was directed to provide relevant guidelines in respect of 'right of way'. Accordingly, the respondent – Oil Company produced 'Geometric Design Standards for Rural (Non-urban) Highways' published by the Indian Roads Congress, for our perusal.

14. After considering the standards mentioned in the said brochure, particularly Clause 6 relating to Cross-Sectional Elements, which is relating to right of way, the right of way is shown between the range 30 to 60 meters on the National and State highways. Considering the said standards of Indian Roads Congress and considering the fact that the petitioner has not produced anything contrary to such requirements of the Indian Roads Congress of having right of way of 30 meters from the middle of the highway, we have no hesitation to hold that the petitioner has miserably failed in establishing that the impugned decision of the respondent – Oil Company suffers from any illegality.

15. The learned Counsel for petitioner is now trying to canvass before us that the road and the right of way are the same and, therefore, having right of way of 30 meters, as per the Indian Roads Congress Standards, 15 meters additional land from the

petitioner's land cannot be considered as right of way, particularly in view of the fact that the existing road is of 30 meters. We are unable to accept the said arguments made by the learned Counsel for the petitioner for the simple reason that we do not find anything on record to hold that roads and right of way are one and the same. It appears from the standards of the Indian Roads Congress that roads and right of ways are different and they are not the same. In the circumstances, we reject the said contention of learned Counsel for the petitioner.

16. Thus, in the said factual backdrop, we hold that the present petition is merit-less and it deserves to be dismissed. Accordingly, Writ Petition is dismissed. Rule discharged. No order as to costs.

(ANIL S. KILOR, J.)

(PRASANNA B. VARALE, J.)

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