

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2132 OF 2015

Ankit J. Shinde

Petitioner

versus

1. Bharat Petroleum Corporation Limited

2. Bacchanlal U. Bagmar

Respondents

Mr.Pramod N. Joshi for petitioner.

Mr.Shivprasad R. Page for respondent no.1.

Mr.Rameshwar N. Gite for respondent no.2.

CORAM : A.A.SAYED AND
PRAKASH D. NAIK, JJ.

DATE : 12th July 2019

PC :

1. The Petitioner has challenged the allotment of retail outlet of LPG Distributorship by Respondent No.1-BPCL to Respondent no.2. According to the Petitioner the allotment has been wrongly made in favour of Respondent no.2 and the same ought to have been made in his favour.

2. During the course of arguments learned counsel for Petitioner stated that though several grounds have been taken in the Petition, the only ground he is pressing is that the location of land has been changed and the retail outlet is situated at a place other than the location for which Applications for allotments were invited.

3. Learned Counsel for the Respondent no.1-BPCL has pointed out the relevant portion of the Guidelines for selection, which reads thus :

“In case if the offered land for godown/godown and offered land for showroom/showroom by the selected candidate which is shown in the application is not found to be suitable at the time of Field Verification of Credentials (FVC), then the selected candidate can offer an alternate land which is owned by the applicant/member of the “Family Unit” as on the last date for submission of application as specified in the advertisement or corrigendum, if any. Such alternate land will be considered subject to its suitability for providing LPG godown and showroom facility as mentioned hereinabove.”

“If the land offered for LPG Godown/showroom is subsequently notified (i.e. after the date of application or issuance of LOI) for acquisition or statutory restrictions are imposed, then the candidate can be allowed to arrange for an alternate plot of land. In such cases, the Oil Company will inform the selected candidate in writing to arrange alternate suitable plot of land within a period of two months from the date of issuance of the communication in this regard.”

4. It is averred in the Affidavit-in-Rely of Respondent no.1-BPCL that the change of location of the godown has been permitted by Respondent no.1-BPCL by following the Guidelines for selection of LPG Distributorship and Clause-6.1(vii) clearly provides offer of alternate accommodation for godown/showroom by selected candidate. It is averred that alternate land offered by Respondent no.2 being land at Village Manur bearing Gat No.61/1/2 in District Nashik was found to be suitable by Respondent no.1-BPCL after conducting field verification of the said land. It is further stated that Clause-6.1(vii) of the Guidelines provides that plot of land offered for the godown should be within 15 kilometers from municipal/town/village limits of the advertised location. It is categorically stated in the Affidavit-in-Reply that the alternate land offered by Respondent no.2 is within the area of the advertised

location as permissible under the Guidelines. The learned counsel for Petitioner however disputes this position.

5. In the Affidavit-in-Reply filed by Respondent no.2, it is asserted that the alternate land comes within Aadgaon Naka area. The Agreement has already been executed on 16th November 2017 by Respondent no.1-BPCL with Respondent no.2 after the Letter of Intent was issued on 16th March 2017. Learned Counsel for Respondent no.2 submitted that the LPG outlet has been operating since last two and a half years.

6. Having regard to the facts and circumstances of the case, we are of the view that once the Respondent no.1-BPCL has stated that alternate land offered by Respondent no.2 is within the advertised location, it is not possible for this Court in its writ jurisdiction to go into this question of fact merely because the Petitioner has disputed the location of the land of Respondent no.2. In any event, since LPG outlet has been operational since last two and a half years, in our view, this is not a fit case for exercise the extraordinary writ jurisdiction of this Court. The Petition is accordingly dismissed.

(PRAKASH D. NAIK, J.)

(A.A.SAYED, J.)