

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4982 OF 2016

Shailesh Baburao Parchake

...

...Petitioner

V/S

Bharat Petroleum Corporation Ltd. & Anr.

....Respondents

...

Ms. Preti Walimbe i/b M/s. Bhushan Walimbe for the Petitioners.

Mr. Mandar Bangali i/b M/s. The Law Point for Respondents.

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**CORAM : A.A. SAYED &
RIYAZ I. CHAGLA, JJ.**

DATE : 4 FEBRUARY 2019

ORDER:

1 The Petitioner's grievance is that his application for allotment of dealership was rejected only on the ground that he has not produced a copy of the registered Lease Deed. It is not in dispute that the Petitioner is the only person who had applied for the LPG Distributorship at Alibaug.

2 The Application of the Petitioner was rejected by the Respondent Corporation on the ground that the Lease Deed for the godown is not registered for 15 years.

3 Learned Counsel for the Petitioner submitted that though in the document dated 23 October 2013 the words mentioned are 'Leave and License', the document is a Lease Deed and as a matter of fact the stamp duty is also paid on the basis of Lease Deed.

4 Learned Counsel for the Respondent Corporation does not dispute that the issue raised in the present Writ Petition is similar to the issue raised in the Writ Petition (L) No.468 of 2014 (O.O.C.J.) wherein on 19 March 2014, this Court has passed the following order:

“1. Heard learned counsel appearing for the petitioner and learned counsel appearing on behalf of the respondents. The grievance of the petitioner is that his application for allotment of LPG dealership has been rejected on the ground that he has not produced a copy of the registered lease deed. Learned counsel appearing on behalf of the petitioner submits that the petitioner in fact had entered into an agreement of lease in respect of the shop as well as in respect of the land where a godown was to be constructed. It is submitted however, that in the lease deed which was duly registered, inadvertently, the title clause in the lease deed refers the parties as licensor and licensee instead of lessor and lessee. It is further submitted that the said documents were not properly drafted and, therefore, the conditions which were in respect of a lease deed of a shop, the same conditions were also incorporated in the lease deed where the land was leased in favour of the petitioner. It is submitted that the since no other person has applied for the allotment of the LPG dealership at the relevant place, the respondents have closed the file. It is submitted that the petitioner is willing to make correction in the two documents and re-submit the said documents.

2. On the other hand, the learned counsel for the respondents has submitted that on account of the clause mentioned in the two documents, the application is not accepted.

3. In our view, since the said plot has not been allotted to any other person and secondly, since the petitioner has submitted that there is some error in the drafting of the lease agreement, in our view, in view of this statement, the petition can be disposed of by permitting the petitioner to correct the said two documents namely, the lease deed in respect of the shop and lease deed in respect of the plot where the godown is to be constructed and re-submit the said documents within four weeks from today. If the said corrected documents are re-submitted to the respondents, the petitioner's case may be considered again on the basis of the re-tendered documents and decision may be taken on merits and in accordance with law within four weeks thereafter.

4. With these directions, the petition is disposed of. The respondents shall not re-notify the said plot for a period of 8 weeks."

5 In the circumstances, for the reasons stated in the aforesaid order, the present Petition is disposed of by permitting the Petitioner to correct the said document dated 23 October 2013 and resubmit the said document to the Respondent Corporation within four weeks from today. If the said corrected document is resubmitted to the Respondents, the Petitioner may

be considered on the basis of the re-tendered corrected document and the decision may be taken by the Respondent Corporation on merits and in accordance with law within a period of four weeks thereafter.

6 The Petition to stand disposed of accordingly.

(RIYAZ I. CHAGLA, J.)

(A.A. SAYED, J.)

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