

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.9974 OF 2019
(Rajendra Bapurao Hande Vs. Bharat Petroleum Corporation Ltd and another)

Mr. Anil M. Gaikwad, Advocate for the petitioner
Mr. Sudhir D. Kulkarni, Advocate for respondent Nos.1 and 2
Mr. S.P Urgunde, Advocate for respondent No.3

**CORAM : S.V. GANGAPURWALA AND
MANGESH S. PATIL, JJ.**

DATE : 13.01.2020

PER COURT :

The petitioner was selected from Group-1 for allotment of the Retail Outlet at village Sonkhed. Subsequently, the petitioner is found ineligible from Group-1 and his case was directed to be considered from Group-3. The same is assailed by the petitioner.

2. Mr. Gaikwad, learned counsel for the petitioner submits that the petitioner possesses the documents of title. There is no shortfall as far as the documents of title are concerned. The candidature of the petitioner from Group-1 is rejected solely on the ground that on the date the petitioner filled in the application pursuant to the advertisement, he did not possess the Advocate's certificate with regard to the land being offered. The petitioner produced Advocate's declaration dated 24.06.2019,

suggesting ownership of the petitioner over the land being offered. The learned counsel for the petitioner submits that clause (k) of the advertisement does not require the documents to be submitted alongwith the application. On the date the documents of the petitioner were scrutinized, the petitioner had produced the Advocate's declaration to the effect that the petitioner is the owner of the land offered. The respondents have taken too technical view. The Advocate's letter does not prove the ownership nor his title.

3. The learned counsel for the respondents submits that the petitioner was required to possess Advocate's declaration as on the date of the application. If the petitioner does not possess the documents as on the date of application, the same cannot be considered. The learned counsel relied on the judgment in the case of *Bharat Petroleum Corporation Ltd. And Ors. Vs. Swapnil Singh*, reported in *(2016) 1CALLT58(SC)*.

4. We have considered the submissions. There cannot be dispute with the proposition that the Advocate's declaration would not bestow the ownership. The petitioner would become the owner or acquire title over the property by the registered instrument.

5. Column 9 of the application requires the following information :-

“Group of the Applicant on the basis of Advocate's letter with applicant on land being offered.”

Clause 15 deals with the undertaking by the applicant. Sub-clause (b) thereunder reads as under :

“I also confirm that I am in possession of the supporting documents in original in respect of the information given by me in this application and if selected, failure to present these documents in original will result in cancellation of selection due to submission of false/unsupported information in this application.”

6. At the time of filling the application online, the petitioner is not required to submit the documents. It is on the basis of the information given by the petitioner in the application, the respondent Corporation processes the papers. The petitioner, in no uncertain words, represented that he is to be considered in Group-1 and that he possesses Advocate's declaration to that effect. If the petitioner would have represented as on the date of filing of the application that the petitioner was not possessing the Advocate's declaration/letter, the petitioner's application could not have been considered from Group-1. However, the petitioner represented that he possesses the Advocate's letter and on the basis of that letter, the petitioner said his land offered, be considered in Group-1. On the basis of such representation, the petitioner was considered in Group-1. It is not disputed that as on the date of the application filled in by the petitioner viz. 25.12.2018, the petitioner was not possessing the Advocate's declaration. The petitioner could get Advocate's declaration on 24.06.2019.

7. The petitioner did not fill in the correct information in the application. This Court cannot exercise the jurisdiction in favour of a person who has filled in correct information and made wrong representation.

8. In light of the above, the Writ Petition stands disposed of.

[MANGESH S. PATIL]
JUDGE

[S.V. GANGAPURWALA]
JUDGE

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