

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

**WRIT PETITION NO.1093 OF 2020
WITH CA/3126/2021 IN WP/1093/2020
WITH CA/3125/2021 IN WP/1093/2020**

**MUKTA ANAND KENDRE
VERSUS
GOVERNMENT OF INDIA THROUGH MINISTRY OF PETROLEUM AND
NATURAL GAS AND ANOTHER**

...
Advocate for Petitioner : Mr. Jadhavar Santosh S.
Standing Counsel for Respondent No.1 : Mr. R. R. Bangar
Advocate for Respondent No.2 : Mr. A. P. Bhandari
...

**CORAM : RAVINDRA V. GHUGE AND
S. G. MEHARE, JJ.**

DATE : 29th SEPTEMBER, 2021

PER COURT :

1. We have heard the learned counsel for respective sides and with their assistance, have perused the petition, paper book and the civil applications.

2. The petitioner lady has approached this Court with prayer clause 'B' and 'C', which read as under :-

"B) By issuing writ of certiorari or any other appropriate writ, order or direction, the Order / letter dated 07.01.2020 issued by respondent No.2, holding petitioner as ineligible for RO Dealership at 'On SH 217 Haknakwadi from Udgir to Shirurtajband Road between KM Stone No.221 to 219' may kindly be quashed and set aside.

C) By issuing writ of mandamus or any other appropriate writ, order or direction, the respondent No.2 may kindly be directed to hold petitioner as eligible for

RO Dealership for location 'On SH 217 Haknakwadi from Udgir to Shirurtajband Road between KM Stone No.221 to 219' and respondent No.2 may kindly be further directed to issue Letter of Intent in favour of the petitioner."

3. The grievance of the petitioner was that she was held ineligible for the retail outlet dealership on the ground that she does not belong to the OBC category, having regard to the said location been reserved for the OBC category. The contention is that the petitioner belongs to the NT-D category which has it's social status, as such, in the State of Maharashtra and so far as the Union of India is concerned, the same tribe would fall within the OBC Category.

4. The development that has taken place during the pendency of this petition is that the petitioner has unfortunately passed away.

5. By the Civil Application, the widower of the petitioner relies on clause 7 of the Brochure of the Petroleum Company which pertains to the selection of dealers for Regular and Rural Retail Outlets dated 24-11-2018. Reliance on clause 7 is placed to contend that the widower can be treated as a partner of the deceased petitioner and with the passing away of the petitioner, he can be the sole proprietor.

6. The learned advocate for the Petroleum Company has opposed the said contention on the ground that clause 7 is self explanatory and requires no debate.

7. Clause 7 referred to by the parties, reads as under :-

"7. SPOUSE AS CO-OWNER

In case of individual applicants, applying as Sole proprietor, his/her spouse (i.e. wife/husband) will be made a partner with a share of 50%, after the issuance of LOI, unless the spouse is already gainfully employed and/or do not wish to be made a partner. If the applicant is unmarried/divorcee/widow/widower at the time of issuance of LOI, he/she will be required to give an undertaking that as and when he/she gets married, his/her spouse will be made a partner unless the spouse is already gainfully employed and/or do not wish to be made a partner. Spouses will be considered for partnership irrespective of any need to satisfy the eligibility criteria for dealer selection. However, they should fulfill the provisions on multiple dealership norms, conviction clause and the condition that they were not a signatory to a terminated dealership/distributorship for proven malpractices etc. In case the spouse is being made partner, then a separate affidavit (as per **Appendix XA**) from the Spouse, proposed partnership deed and other necessary documents be taken before induction as partner/issuance of LOA. Provisions of Reconstitution policy are not applicable for induction of Spouse as Co-owner (a) before issue of letter of Appointment for married applicants/allottees or (b) within one year of marriage in other cases.

For making spouse as partner a letter as per **Appendix II A** along with an Affidavit from the Spouse as per **Appendix II B** will be taken after award of LOI and necessary documentation with respect to Registration of Partnership deed, etc. will be completed by the applicant(s) prior to issuance of LOA. Dealership

agreement will be signed with both the partners and LOA will be issued.

In case the spouse does not wish to become a partner for any reason including she/he being gainfully employed, Affidavit as per **Appendix II B** should be obtained for records.

Applicants are not permitted to enter into partnership with anyone than their spouse under the above mentioned clause"

8. It is obvious from the above reproduced clause that if there is an individual applicant applying as a sole proprietor, his/her spouse can be made a partner with a share of 50%, after the issuance of the LOI, unless the spouse is already gainfully employed and/or does not wish to be made a partner. If the applicant is unmarried/divorcee/widow/widower at the time of issuance of LOI, he/she will be required to give undertaking that as and when he/she gets married his/her spouse will be made a partner, unless the spouse is already gainfully employed and/or does not wish to be made a partner.

9. In the present case, the applicant herself has passed away. Her surviving husband, who is rendered a widower, is not an applicant before the Company. So also, the LOI has not been issued in favour of the deceased petitioner. It would, therefore, be far fetched to suggest that as an L.R., the widower be allowed to step into the shoes of the applicant petitioner and an assumption be

drawn that he has inherited the application/form filed by the deceased petitioner. We do not find that the phraseology used in clause 7 could be stretched this far.

10. In view of the above, this petition abates.

11. The pending civil applications do not survive and stand disposed off.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)