

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

WRIT PETITION NO.1445 OF 2020

Mohan Ananda Bodre,
Age : 52 years,
Occupation : Agril & Business,
R/o Plot No.16, Sundarach Colony,
Near Agrasen School, Sakri Road,
Dhule, District Dhule.

...PETITIONER

-VERSUS-

Indian Oil Corporation Limited.
Through it's Chief Area Manager,
Indane Area Office,
Abhish Tower, 1st Floor,
Behind Baba Petrol Pump,
Mahaveer Chowk, Aurangabad.

...RESPONDENT

**WITH
CIVIL APPLICATION NO.3040 OF 2020
IN
WRIT PETITION NO.1445 OF 2020**

Subhash Ananda Bodhare,
Age : 60 years,
Occupation : Engineer (Retired),
R/o Flat No.201, Sai Gunjan Apartment,
Professor Colony, Deopur,
Dhule, District Dhule.

...APPLICANT/ INTERVENOR

-VERSUS-

1. Mohan Ananda Bodre,
Age : 52 years,
Occupation : Agril & Business,
R/o Plot No.16, Sundarach Colony,

Near Agrasen School, Sakri Road,
Dhule, District Dhule.

2. Indian Oil Corporation Limited.
Through it's Chief Area Manager,
Indane Area Office,
Abhish Tower, 1st Floor,
Behind Baba Petrol Pump,
Mahaveer Chowk, Aurangabad.

...RESPONDENTS

...

Advocate for the petitioner in WP : Shri S.P. Shah
Advocate for the Respondent/ Corporation : Shri Anand P.
Bhandari

Advocate for the Applicant in CA/3040/2020 : Shri Sawant Amol
S.

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

DATE :- 06th September, 2021

ORAL JUDGMENT :-

Civil Application No.3040/2020 :-

1. We have considered the submissions of the learned advocates representing the respective sides on the Civil Application.

2. By this Civil Application, the applicant who is a retired engineer and who has occupied a high position in an organization, seeks to intervene in the Writ Petition filed by the

petitioner, who is the younger biological brother of the applicant. The petition is filed for challenging the cancellation of the LOI issued in favour of the petitioner.

3. Extensive submissions have been canvassed by the applicant and the original petitioner, who is an ex-serviceman. The learned counsel for the respondent/ Petroleum Corporation has assisted the Court with the documents and the guidelines of the Corporation in relation to allotment of LPG distributorship, to the extent of the Civil Application. Considering the issue before us, we are not required to advert to the entire submissions of the applicant and the original petitioner.

4. The grievance of the applicant is that he had entered into certain financial transactions with the petitioner. Based on the same, a partnership agreement was arrived at on 19.10.2017 and an internal arrangement between the applicant and the petitioner was made. Subsequently, the petitioner entered into a second agreement with the applicant on 18.04.2019. Certain additions were made in the said agreement and both decided to apply to the respondent Corporation under clause 2.3 of the Reconstitution Guidelines of November, 2018. It is undisputed that such an application was not officially filed before the

respondent Corporation. It is equally undisputed that the petitioner had applied in his individual capacity pursuant to the advertisement dated 01.09.2017, for a location which was reserved for an ex-serviceman.

5. The grievance of the applicant is that the petitioner entered into another agreement for setting up a partnership firm on 08.06.2019 in which, he ousted the applicant and inducted his wife as a proposed partner.

6. With the above developments, the applicant lodged a complaint to the Chief Area Manager of the respondent Corporation on 24.08.2019 through an advocate. With his formal complaint, the respondent Corporation issued the show cause notice dated 19.11.2019 calling for an explanation from the petitioner. By reply dated 26.11.2019, the petitioner admitted that his wife was inducted as a partner and that the petitioner's brother was raising a dispute about the financial transactions between them. He alleged that the applicant had taken undue advantage of the petitioner, who is educated only upto 10th standard, by making him sign on the partnership agreements. He has been cheated by his brother. It is in this backdrop that the impugned order dated 15.01.2020 canceling the LOI dated

31.12.2018, was issued. Aggrieved by the same, the petitioner is before us.

7. We find from the extensive submissions of the learned counsel that the petitioner has not formally applied to the respondent Corporation for inducting his wife into a partnership firm under clause 2.3 of the Reconstitution Guidelines dated 01.11.2018. Officially, the respondent Corporation has not received any application from the petitioner, after he was granted the LOI, that he wanted to transform his application as an individual/ ex-serviceman into a partnership firm. The spat between the petitioner and the applicant is at a personal level. Per contra, the grievance of the petitioner against the cancellation of his LOI is put forth through a writ petition by which, he seeks redressal. A private dispute between the two which has not been officially translated into a change of entity for the LPG distributorship, in our view, would not warrant the interjection of the applicant in the writ proceedings. The Civil Application filed by the applicant seeking intervention is, therefore, rejected.

Writ Petition No.1445/2020 :-

8. Since extensive submissions were canvassed by the

petitioner and the respondent Corporation and as the pleadings were complete, the learned advocates consented for a decision on the writ petition itself. As such, Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

9. To recapitulate, the following factors emerge from the record :-

(a) An advertisement dated 01.09.2017 was published by the respondent company calling for applications for LPG distributorship at various locations.

(b) The petitioner applied on 28.09.2017 from the ex-serviceman quota.

(c) He has offered two pieces of lands for setting up a godown/ store house and for establishing a front office/ dealership from where he would cater to the distribution of LPG gas cylinders.

(d) On 31.12.2018, after a verification as per procedure, the Letter of Intent (LOI) was issued to the petitioner in his individual capacity as an applicant.

(e) The LOI is merely an offer after selection and is not a confirmation of allotment of an LPG distributorship.

(f) By the impugned communication dated 15.01.2020,

the LOI has been rejected by the respondent Corporation on the ground that clause 5.4 of the LOI was violated by the petitioner.

(g) Hence, this petition.

10. Clause 5.4 of the LOI reads as under :-

“5.4 You are not permitted to induct any one as your partner nor make any changes in the constitution of the proposed distributorship in a manner other than what was intended at the time of application, without prior approval from Corporation.”

11. It is obvious from the above reproduced clause that the petitioner could not make a change in the constitution of the proposed distributorship in a manner other than what was intended at the time of the application, without prior approval from the respondent Corporation. The respondent Corporation has not imposed a complete prohibition on making a change in the constitution of the proposed distributorship. If the petitioner desires to make a change by inducting either the brother or his wife and reconstitute his proposed distributorship, prior approval of the respondent Corporation, was necessary. There would be no objection from the respondent Corporation, unless there is any other legal or policy impediment.

12. Factually, the petitioner is yet to make an official application to the respondent Corporation invoking clause 5.4 for inducting a person as his partner. The official file of the proposal of the petitioner still rests on his application made as an individual for a location reserved for ex-serviceman. In our view, the respondent Corporation should not have acted on the personal bickerings that have been brought to the fore by the biological brother of the petitioner. Though the biological brother may intend to wash dirty linen in public, the respondent Corporation should be least bothered until the petitioner has officially intimated to it that he was making changes in the constitution of the proposed distributorship, in accordance with its policy. In the event, he does it unofficially and this interferes in the professional relationship between the petitioner and the respondent Corporation, after the dealership is commissioned or even before the commissioning of the dealership, the respondent Corporation could then consider as to whether, it could finalize its decision for granting the dealership to the petitioner.

13. It is apparent from the impugned order that the Corporation unnecessarily took cognizance of a personal dispute brought before it. The intention of the brother appears to be that

the petitioner should lose the LOI. In our view, the respondent Corporation should not be bothered as long as the dispute is an internal affair inter-se between the petitioner and his biological brother.

14. The learned advocate for the petitioner has cited the judgment delivered by this Court on 16.06.2015 in Writ Petition No.4210/2015 filed by ***Namdev Bhimrao Bhil vs. The Union of India and another***. The petitioner Namdev had contended that he had not breached any condition incorporated in the LOI. The issue between the petitioner and the respondent Corporation was as regards the construction of the godown on the plots mentioned in the application and also on a plot not mentioned in the application. Prior permission of the respondent Corporation, allegedly was not taken. The petitioner had explained the circumstances in which he was required to expand the construction of the godown on such plots which were owned and possessed by him. This Court, therefore, took a view that the respondent Corporation was adopting a hyper-technical approach and the applicant who had succeeded in getting the LOI, had constructed the godown in order to facilitate the distributorship.

15. In the case in hand, the petitioner has already

constructed the godown on the land as was mentioned in his application, by taking a loan of Rs.7 lacs. He is a semi-literate agriculturist. As he was short of finances after having retired from the armed forces, it appears that he had attempted to arrive at a private financial arrangement with his biological brother. This was behind the scene and there was no application officially made by the petitioner to the respondent Corporation for altering his status as an applicant from the ex-serviceman quota.

16. We are, therefore, unable to accept the strenuous contention of the learned advocate representing the respondent Corporation that clause 5.4 of the LOI, which permits induction of a partner/ reconstitution of the proposed distributorship only with the prior approval of the respondent Corporation, has been violated, in the absence of the petitioner officially requesting for or disclosing the reconstitution of his proposed distributorship. As long as he continues his status as set out in the application on record, the bickering between two siblings should not influence the respondent Corporation.

17. In the light of the above, this Writ Petition is allowed. The impugned order dated 15.01.2020 is quashed and set aside.

18. It is made clear that this decision is restricted to the extent of the impugned order and if the respondent Corporation finds any legal/ policy impediment in future in the setting up of the LPG distributorship, before allotment or after allotment to the petitioner, it would be at liberty to follow it's policies/ guidelines/ rules and take recourse to appropriate steps as are prescribed.

19. Rule is made absolute in the above terms.

kps (S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)