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

27 WRIT PETITION NO.8069 OF 2020

Sunita w/o Surjerao Wakade,
Age: 45 years, Occu: Household,
R/o. B-202, Vaibhavshali Co-operative
Housing Society, Sector No. 11, Plot No. 5,
Kharghar, Tq. Panvel,
Dist. Raigad

...PETITIONER

VERSUS

1. Union of India,
Through its Secretary,
Ministry of Petroleum & Natural Gas,
New Delhi
2. The State of Maharashtra,
Through its Secretary,
Ministry of Petroleum & Natural Gas,
Mumbai-32
3. The Bharat Petroleum Corporation Ltd.,
Through its Manager,
Maker Tower Cuffe Pared, Post Box No.19949,
Mumbai-400 005
4. The Bharat Petroleum Corporation Ltd.,
Through Regional Head,
Near Pakni Railway Station, Pakni Post,
North Solapur, Solapur – 413255

...RESPONDENTS

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Mr D. A. Mane, Advocate h/f Mr P. A. Bharat, Advocate for petitioner;
Mr A. N. Patale, Standing Counsel for respondent No.1;
Mr S. B. Yawalkar, A.G.P. for respondent No.2;
Mr S. S. Kulkarni, Advocate for respondent Nos.3 & 4

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

DATE : 2nd August, 2021

ORAL JUDGMENT : (Per : Ravindra V. Ghuge, J.)

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.
2. The petitioner has put forth prayer clause (B), which reads as under :

“B] This Writ Petition may kindly be allowed and impugned communication dated 27.08.2019 issued by the Respondent-Bharat Petroleum Corporation Ltd., may kindly be quashed and set aside and the Respondents Authorities may kindly be directed to award RO Dealership at Raimoha, Tq. Shirur-Kasar, Dist. Beed under SC category pursuance to the advertisement dated 25.11.2018 in favour of the petitioner”

3. Since the impugned order is dated 27/08/2019 and as the petition was filed on 23/01/2020, no interim relief has been granted to the petitioner.

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4. The petitioner, who belongs to the Scheduled Caste category and is SSC (10th standard) holder, applied for Retail Outlet Dealership (for short 'R. O. Dealership') at Raimoha, Tq. Shirur-Kasar, Dist. Beed in view of the advertisement issued by respondent Nos.3 and 4, dated 25/11/2018 in "Dainik Lokmat". By an e-mail communication dated 18/06/2019, respondent Nos.3 and 4 (Bharat Petroleum Corporation Ltd.) declared that the petitioner was selected on the basis of a draw of lots. She was informed that this was only a preliminary intimation towards her selection for R. O. Dealership and the award of the Dealership would be subject to compliance of the terms and conditions made applicable by the BPCL. By a communication dated 27/08/2019, which is impugned in this petition, the petitioner was informed after the Land Evaluation Committee evaluated the land offered by her, by visiting the site on 26/08/2019 and it was found that the land was not suitable since "*the offered land is situated on SH 59*".

5. The grievance of the petitioner is, that after going through the advertisement, she had offered the concerned site. As she was not conversant with English language, she could not read or understand

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the brochure for selection of Dealership for Regular and Rural Retail Outlets, published on 24/11/2018. She was not aware that the land to be offered for the Rural site at issue, should be a location in the rural area and not on any State or National Highway or any Highway of such nature outside the Municipal limits of the town. As she was not able to read the English version of the brochure, she offered her land which was on State Highway 59. Had this aspect been mentioned in the advertisement or the documents available on the website of the BPCL for the purposes of appointing Retail Outlet Dealership in the regular and rural areas, she would have realized that the land that she had offered, was not suitable for the said location. She had another land which she could have offered for the said purpose. As there is a deficiency in the advertisement, notwithstanding the policy decision of the BPCL, this Court should direct the BPCL to accept the land location/site offered by the petitioner and allot a Retail Outlet Dealership.

6. The learned Advocate representing the BPCL has taken us through the brochure published for selection of dealership. He submits that the BPCL cannot be faulted if they have published the

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brochure in English language. If the petitioner was unable to read the English brochure, she should have taken the assistance of any person who was conversant with English language. On this count, the BPCL cannot be faulted.

7. He further submitted that there are instances when certain lands situated on State Highways or National Highways were not found suitable. The BPCL had issued a notice concerning appointment of regular/rural R.O. Dealership, wherein such exclusion of lands was mentioned. It is conceded that due to oversight, that such exclusion was not mentioned regarding the Raimoha rural area in Taluka Shirur-Kasar, Dist. Beed, which was a location on which a petrol pump dealership was necessary. It was not mentioned at Sr. No.276 in the said notice that said Highway or National Highway land was not acceptable. Nevertheless, it has been specifically mentioned in the brochure at internal page No.31 that locations in rural areas would be preferred for rural R. O. Dealership and such locations on national Highways or State Highways, etc., outside the Municipal limits of the town, were not acceptable.

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8. It is then pointed out that before approaching the High Court, the petitioner had filed a civil case bearing R.C.S. No.860 of 2019 before the District Court by way of a suit and *ex parte* ad interim injunction was granted by the Trial Court. Subsequently, the petitioner withdrew the said case from the learned Civil Court. It is further pointed out that the suit was withdrawn after the filing of this petition in the same cause.

9. It requires no debate that if the petitioner is unable to follow English language, her lack of understanding cannot be attributed to the BPCL. So also, merely because the BPCL had not mentioned in one of its notices indicating exclusion of lands on the National Highways or State Highways, would also not further the cause of the petitioner since it was specifically mentioned in the brochure which was available on the website that sites for the rural areas would not be preferred on the National Highways or State Highways. The conduct of the petitioner in filing a civil suit before the learned Trial Court and after obtaining injunction, filing a writ petition in this Court, is not appreciable.

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10. Though it is mentioned in the memo of the petition that R.C.S. No.860/2019 is pending before the learned Trial Court, the filing of this petition in the face of a pending suit in the same cause, cannot be tolerated. Subsequent withdrawal of the suit will not further the cause of the petitioner.

11. Taking into account all the above factors and as this petition is devoid of merits, the same is dismissed. Rule is discharged.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)

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