

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

WRIT PETITION NO.9147 OF 2021

**PRIYANKA W/O RAVINDRA JOGDAND
VERSUS
INDIAN OIL CORPORATION LIMITED LTD. AND ANOTHER**

...
Advocate for Petitioner : Mr. Shirsath Suhas R.
Advocate for Respondents : Mr. A. P. Bhandari
...

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

DATE : 29th SEPTEMBER, 2021

PER COURT :

1. While issuing notice on 31-08-2021, we had appreciated the submissions of the learned advocate for the petitioner, and we had observed in our order as under :-

"1. The petitioner is before us being aggrieved by the cancellation of her candidature vide the impugned communication dated 11.06.2021. The reason for cancellation of her candidature for allotment of a retail outlet is on account of the land offered by her falling in Jalna district contrary to the advertisement.

2. Issue notice to the respondents returnable on 22.09.2021. Shri Bhandari, learned advocate, waives service of notice on behalf of both the respondents.

3. We have perused the map placed before us with colour shades at page 81. The Aurangabad district is shown in violet colour and Jalna district is in yellow colour. According to the petitioner, the portion at the lower end junction of the violet and yellow colour, in the formation of English capital alphabet "C", is the spot at which the respondents desire to establish a retail outlet and coincidentally that spot falls within Jalna district. The said spot is encircled in red pencil for identification.

The land offered by the petitioner is in that spot.

4. Shri Bhandari assures that the retail outlet would not be allotted to any applicant, whose land offered for retail outlet falls in Jalna district. He seeks time to take instructions as to whether, the location advertised coincidentally falls in the portion which is within the limits of Jalna district.

5. As such, we expect that the respondents should restrain from making any allotment of the retail outlet at the concerned location, till the next date.

6. The learned advocate for the petitioner assures us that he would not seek an adjournment."

2. For the sake of clarity, we are reproducing here below a magnified portion of the Jalna – Aurangabad District Boarder with regard to which the dispute is raised before us, as follows :-



3. The petitioner has put forth prayer clause 'B' and 'C' as under :-

"B. Issue writ of certiorari or any other appropriate writ, order or direction in the nature of writ of certiorari and thereby quash & set aside the order contained in the communication dated 11.06.2021, issued by the respondent No.2 declaring the petitioner to be ineligible from Group-1 Category for allotment of Retail Outlet Dealership of Indian Oil Corporation Limited at upto 3 km. after Pachod Bypass end towards Aurangabad (LHS towards Aurangabad) in pursuance of the advertisement dated 25.11.2018 and for that purpose issue necessary orders.

C. Issue writ of certiorari or any other appropriate writ, order or direction in the nature of writ of mandamus and direct the respondents no. 1 & 2 to consider the candidature of the petitioner for allotment of Retail Outlet Dealership of Indian Oil Corporation Limited at upto 3 Km. after Pachod Bypass end towards Aurangabad (LHS towards Aurangabad) in pursuance of her selection made on 15.07.2019 and for that purpose issue necessary orders.”

4. It is undisputed that the respondent company desired a location for a retail outlet of the petrol pump over a distance of 03 Km from the Pachod Bypass end towards Aurangabad on the left hand side. The advertisement, undisputedly indicates that the spot to locate the retail outlet was to be in Aurangabad District. It is a peculiar situation, as is visible from the map reproduced above that the 'C' shape portion or a protruding thumb like portion shown in yellow shade is a land falling within the limits of the Jalna District. While earmarking the allotment of the retail outlets, the company has earmarked an outlet for the Aurangabad District. Admittedly, the land offered by the petitioner as per the advertisement, was not from the Aurangabad District, but from the Jalna District. The explanation is that the spot where the retail outlet is to be located, is completely within the Jalna District and only a small portion of the said spot would fall within the Aurangabad District. The petitioner, however, submits that she was aware that the land to be offered was to be from the Aurangabad District.

5. The learned advocate for respondent company submits that this is a peculiar case and it has actually gone unnoticed as to whether there would be a portion of land falling in the Jalna District, that would protrude into the Aurangabad District, thereby creating a 'C' shape or a thumb like protrusion. If, even a slightest portion of the spot/area in which the retail outlet is to be located does not fall in the Aurangabad District, the company would forthwith cancel the advertisement.

6. The learned advocate for the petitioner seeks a direction that as he has entered into a lease agreement with a landlord for the land offered for the retail outlet for 21 years, he would suffer a grave financial loss and therefore, the company be directed to allot the retail outlet to the petitioner. We find several pitfalls in the said submission of the petitioner. Firstly, we cannot step into the shoes of the company to take a decision of altering the location district-wise. When the location is planned by the company, we should not direct a change in the district from Aurangabad to Jalna. Secondly, when the land offered by the petitioner falls within the Jalna District and the Petroleum Company desires to locate the retail outlet in the Aurangabad District, granting the prayer of the petitioner, would amount to causing injustice to all those who may be having lands in that portion falling in the Jalna District and may

not have participated in the competition, as the retail outlet was to be located within the Aurangabad District.

7. The learned advocate for the Company submits that they would initiate steps to arrive at a finding on facts as to whether that portion appearing in the reproduced map totally falls within the Jalna District. If this so appears from the records, they would cancel the location. If the land shown by the petitioner would fall within the Aurangabad limits, though it quite appears that this is not the case, they would still consider the candidature of the petitioner.

8. In view of the above, this writ petition is disposed off.

(S. G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)