

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10577 OF 2019

Chakrawarti W/o Sham Sangale,
Age : 43 years, Occu : Household,
R/o Mahesh Nagar, Kada,
Tal. Ashti, District – Beed

.. PETITIONER

VERSUS

1] The Senior Regional Manager, Retail,
Hindustan Petroleum Corporation Ltd.,
(Govt. of India Enterprise)
Regional Office – Near Pakni Railway Station,
Pakni, Solapur – 413 242

2] The Executive Director – Retail
Hindustan Petroleum Corporation Ltd.,
(Govt. of India Enterprise)
Registered Office – 17, Jamshedji Tata Road,
Churchgate, Mumbai – 400 020

3] Union of India
(Ministry of Petroleum)

4] Balu Kailash Nalawade,
Age – 35 years, Occu. Business,
R/o Nalawadi Vasti, Kerul Road,
Kada, Tal. Ashti, Dist. Beed

.. RESPONDENTS

...
Advocate for petitioner : Mr. R. B. Deshpande
Advocate for the respondents nos. 1 and 2 : Mr. A.P. Bhandari
DSGI for respondent no. 3 : Mr. A.G. Talhar
...

**CORAM : MANGESH S. PATIL &
Y. G. KHOBRADE, JJ.**

DATE : 7 DECEMBER 2022

ORDER (MANGESH S. PATIL, J.) :

Heard.

2. Rule. Rule is made returnable forthwith. Mr. Bhandari, learned counsel waives service for respondents nos. 1 and 2 and Mr. Talhar, learned DSGI waives service for respondent no. 3. At the joint request of the parties, the matter is heard finally at the stage of admission.

3. The petitioner is aggrieved by rejection of her application for awarding RO dealership at advertised location by the respondents nos. 1 and 2 on the ground that the land offered by her was not suitable.

4. The learned advocate for the petitioner Mr. Deshpande would vehemently submit that she had offered land of requisite dimension. However, the officers of the respondents nos. 1 and 2 rejected it, on the false pretext that a 33 KVA HT line of the Maharashtra Electricity Distribution Company Ltd. (**MSEDCL**) passes through her land which is factually incorrect. In-fact, that line merely passes by about 5 Meter away from the offered location and the rejection is based on incorrect and unsustainable ground. He submits that the very same electricity supply line even passes through the plot of land offered by the respondent no.4 but ignoring such state-of-affairs, he has been allotted the petrol pump. The petitioner is therefore entitled to seek quashment of the letter of allotment / letter of intent issued in favour of the respondent no. 4 and a declaration that her claim was suitable.

5. Learned advocate Mr. Bhandari for the respondents nos. 1 and 2 submits that the petitioner is guilty of delay and laches. She has not approached this Court in time. Already the retail outlet was allotted to the respondent no. 4 who has established the petrol pump and has been operating it since 29-06-2018 but the petition has been filed on 21-08-2019.

6. Mr. Bhandari would further submit that when the land evaluation committee visited the petitioner's plot of land on 01-06-2015, the electricity supply line was seen passing through the plot. The minutes were recorded in presence of the petitioner who also signed it but has not put up any grievance about her such tacit conduct. Therefore, she cannot be heard now to deny the fact of passing of the electricity supply line through her plot which she had offered. He would further point out that even the fact that the petitioner has obtained a no-objection certificate from the MSEDCL that the line would be shifted if such a request is made, is an implied admission regarding passing of the HT (high tension) electricity supply line through her land. He would therefore submit that the grievance being raised by the petitioner at a belated stage cannot be considered to set the clock back when the respondent no. 4 has been running the petrol pump.

7. We have considered the rival submissions.

8. Admittedly, the petitioner's candidature has been turned down on the specific reason that a HT line passes through the plot of land offered by her. The brochure for selection of dealers for regular and rural retail outlets dated 09-10-2014 governs, regularizes and prescribes the modalities for allotment of RO dealership about which there is no dispute. It is also apparent from clause 'J' which is a part of item no. 14 concerning the selection procedure contains the requirements in respect of land evaluation by the committee which *inter alia* is expected to examine whether the land has no HT line of more than 11 KVA and the land which is not compatible with this requirement cannot be considered as suitable.

9. As far as the facts are concerned, though the petitioner is faintly disputing the fact that the 33 KVA HT line was passing through the plot of land offered by her, the statement in the affidavit-in-reply that the site map was drawn in her presence and produced by the petitioner herself (page 46) was duly signed by her, has not been controverted by filing any rejoinder. This map bears her signature and clearly indicates that the 33 KVA HT line passes through the plot of land offered by her. This map also contains a specific stipulation that the matters indicated therein in respect of the plot offered are admitted by the individual, i.e. the petitioner. Therefore, there is no escape from the conclusion that factually the ground on which the petitioner's candidature was rejected is clearly a genuine and tenable ground.

10. This observation in itself is sufficient to dismiss the petition and we accordingly dismiss it.

11. At this juncture, learned advocate Mr. Deshpande for the petitioner submits that after rejection of the petitioner's candidature, respondents nos. 1 and 2 had issued a cheque for the amount of deposit of Rs. 1,50,000/- dated 03-08-2016. However, since the petitioner was disputing the rejection, she had not encashed it. Therefore, the respondents nos. 1 and 2 be directed to issue a fresh cheque.

12. Learned advocate Mr. Bhandari would submit that the petitioner may submit her request for refund by moving an application which would be favourably considered if the amount has not been withdrawn / paid to her.

13. In view of such commitment made on behalf of the respondents nos. 1 and 2, the petitioner may submit an application seeking refund which shall be considered by the respondents nos. 1 and 2 expeditiously.

14. Rule is discharged.

[Y. G. KHOBRADE]
JUDGE

[MANGESH S. PATIL]
JUDGE

arp/