IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 10183 OF 2016

Rajashri Dhananjay Varpe … Petitioner
Versus
Indian Oil Corporation Ltd. and another … Respondents

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Ms Harsha R. Lomate, Advocate h/f Mr. V. D. Salunke, Advocate for petitioner
Mr. Anand P. Bhandari, Advocate for respondent No.1
Mr. D. G. Nagode, ASG for respondent No.2

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CORAM : MANGESH S. PATIL & Y. G. KHOBRAGADE, JJ.

DATED : 23 NOVEMBER 2022

ORDER :-

Heard. Rule. Rule is made returnable forthwith. At the request of the parties, the matter is heard finally at the stage of admission.

2. The petitioner is aggrieved by the rejection of her application for allotment of retail outlet dealership on a specified location for a specified category pursuant to the advertisement dated 28.10.2014.

3. The rejection of the petitioner's application has been on the following ground:

"*(i) As per the guidelines para 4 (V) of the broucher, for Regular RO, fund requirement for eligibility will be Rs.25 lacs. You have shown Rs.7.25 lacs as finance from LIC & GPF and Rs.32.83 lacs from Agricultural land and balance Rs.24.10 lacs as your finance. The finance of LIC, GPF, Agricultural lands cannot be considered as per the guidelines and the balance funds of Rs.24.10 lacs is less than the eligibility criteria of Rs.25.0 lacs for the above location which is not as per the eligibility criteria.*"

4. These guidelines on selection of dealers for regular and rural retail outlets, admittedly, are applicable to the matter in hand. It *interalia*, includes a stipulation as regards financial condition of the applicant as under :

"*(v) Finance:*
For Regular ROs the fund requirement for eligibility will be Rs.25 lakhs and in respect of Rural ROs the fund requirement for eligibility will be Rs. 12 lakhs. The funds can be in the following forms:-

** **Funds in savings accounts, Deposits with Bank/Registered Companies/Postal Schemes**: Copy of Pass book/account statement/ deposit receipts to be provided.*

** **National Savings Certificates, etc** : Redemption value - Valuation certificates along with copy of NSC to be provided.*

** **Bonds : Redemption value** : Valuation Certificates along with copy of bonds to be provided.*

** **Shares of listed Companies in Demat form** : Valuation certificates along with copy of Demat statement to be provided.*

** **Mutual Funds** : Valuation certificates along with copy of mutual fund certificates or Demat statements to be provided.*

All valuation certificates should be for the assets held on any *date after the date of advertisement. The valuation certificate is to be obtained either from a Chartered Accountant or Depository Participant, as applicable.*

Only 60% of the certified value (for Shares, Mutual funds & Bonds) will be considered for the purpose of eligibility.

The above details are to be given in the application form by the applicant supported by copies of relevant documents. The eligibility would be determined based on the declaration given in the application and relevant Clause of the affidavit (Appendix XA/XB as applicable) regarding the same.

The funds mentioned in the application form should be available with the applicant as on the date of affidavit.

During field verification availability of fund as on cut-off date of submission of application will be verified.

Wherever available funds as closing balance on the cut-off date of submission of application are found to be less than the funds required for eligibility, candidature of the applicant will be cancelled.

*a) The amounts of Rs. 12 lacs and 25 lacs as mentioned above are only for deciding eligibility criteria. The actual funds to be arranged would vary from case to case basis as determined by the respective Oil Company, as indicated in the advertisement. The fund requirement given in the advertisement does not include cost of development of land being offered as detailed in Clause 4, (vi), item no.(e) of **Note**.*

b) In case of SC/ST locations, Finance will not be eligibility criteria.

c) Cash/Jewelry/Instruments, etc. where the ownership cannot be established will not be considered.

d) Balance in current account will not be considered.

*In respect of "Finance" parameter as indicated above the ownership of finance by any member of the "family unit" (as defined under Multiple dealership norms in Clause 10 - "Disqualification") will be considered as belonging to the applicant subject to producing consent letter(s) in the form of affidavit (**Appendix – IV**) from the concerned member of the "family unit" for funds availability as mentioned in Clause 10 of the Application form (**Appendix – XI A**).*

e) The financial instruments / accounts / funds, etc. offered by one applicant cannot be offered by other applicants against the same location of the advertisement.

In case financial instruments / accounts /funds, etc. are found common in more than one application for the same location of the advertisement, at any stage, then all such applications would be liable for rejection or if selection has been done then the same would be cancelled.

In this regard a declaration would be given by the applicant/their family members that the financial instruments / accounts / funds, etc. offered by them for finance have not been offered by any other applicant for the same location of the advertisement. In case the same is found at any stage then candidature of all such applicants would be rejected/selection cancelled."

5. The petitioner is expecting her deposits in the Provident Fund account and in the form of premium paid to the L.I.C. policy should be taken into consideration while considering her financial status and eligibility of possessing Rs.25,00,000/-.

6. As is pointed out by Mr. Bhandari, learned advocate for the respondent - Corporation what amounts are eligible to be

considered towards this criteria have been enlisted in Clause (v), which includes the funds available in the savings account, deposits with banks, registered companies, postal schemes, national saving certificates, bonds, shares with the listed companies, holdings in Demat account and mutual funds. The list conspicuously does not contain any deposit made in the provident fund account or the premium paid towards life insurance policies.

7. In view of such objective criteria to be applied while considering eligibility of a candidate, there is no scope left with the respondent - Corporation but to reject the proposal, else it would have been blamed for overreach.

8. In our considered view, the grounds for which the petitioner's candidature/application has been rejected, is clearly borne out from the aforementioned guidelines and the decision taken by the respondent – Corporation is justified.

9. The writ petition is dismissed. Rule is discharged.

[Y. G. KHOBRAGADE, J.] **[MANGESH S. PATIL, J.]**

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