

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.664 OF 2021

Aniket s/o Devendra Mate, Waghmare Layput, Parsodi, Umred, Dist. Nagpur

-vs-

Indian Oil Corporation Ltd. Thr. Divisional Officer, Ramdaspath, Nagpur

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Shri Anand Parchure, Advocate for petitioner.

Shri Rohit Joshi, Advocate for respondent.

CORAM : A. S. CHANDURKAR AND URMILA JOSHI-PHALKE, JJ.

DATE : September 21, 2022

P.C.

Heard.

The petitioner has raised a challenge to the communication dated 05/07/2021 issued by the Indian Oil Corporation (for short, the Corporation) by which the petitioner has been informed that the approval to the location where a retail outlet was to be situated has been withdrawn.

2. On 25/11/2018 an advertisement was published by the Corporation inviting applications so as to appoint Dealers for allotment of retail outlets in the areas indicated. The petitioner applied pursuant to the said advertisement for location No.1418. After completing the initial process the petitioner was selected through a lucky draw. He was thereafter asked to submit requisite documents. After submitting such documents the petitioner was waiting for award of dealership. However on 05/07/2021 the Corporation informed the petitioner that it has withdrawn the approval for location No.1418. Being aggrieved

the petitioner has challenged the aforesaid communication.

3. It is submitted by the learned counsel for the petitioner that the Corporation was not justified in withdrawing its approval to the said location. The reason now put forth in the affidavit in reply that the road in question was notified as National Highway in the year 2014 cannot be the basis for withdrawing such approval. The advertisement in question having been published on 25/11/2018, it ought to be assumed that the Corporation was aware of this fact. The site of land offered by the petitioner was as per the requisite dimensions which were 30 Meters x 30 Meters for an outlet located on the said highway. The decision to withdraw the approval was arbitrary and the same caused prejudice to the petitioner. The petitioner was ready to offer an alternate land even if the land initially offered did not satisfy the requirements. It was thus prayed that the impugned communication be set aside and Letter of Intent be issued to the petitioner.

4. The learned counsel for the respondent relied upon the affidavit in reply. According to him notification dated 23/09/2014 was issued notifying the aforesaid road as a National Highway. In the advertisement it was inadvertently mentioned that the location of the outlet is on a State Highway. The requirement of land for an outlet on the State Highway was 30 Meters x 30 Meters while that on the National Highway was 35 Meters x 35 Meters. The Land Evaluation Committee had found that the plot offered by the petitioner did not meet the requisite dimensions even with regard to the State Highway. It was permissible to offer an alternate location provided the

location as proposed initially met all the requirements. In the advertisement for allotment of outlet it was clearly specified that the Corporation shall have the right to cancel, withdraw or amend the advertisement at its sole discretion without assigning any reasons. That right had been exercised for justifiable reason.

5. We have heard the learned counsel for the parties. It is not in dispute that on 23/09/2014 notification was issued by the Central Government notifying the road in question as a National Highway. It is further not in dispute that insofar as the requirement of a retail outlet on the State Highway is concerned, the dimensions ought to be 30 Meters x 30 Meters while that on a National Highway they ought to be 35 Meters x 35 Meters. As per report of the Land Evaluation Committee the plot in question did not meet the requirements prescribed for the State Highway. It is true that the petitioner has sought to offer an alternate land but as rightly pointed out by the learned counsel for the respondent by referring to the communication dated 04/03/2016, such offer can be made only when the land initially offered meets all specifications. Be that as it may, we find that in the advertisement itself the right to amend or withdraw the advertisement has been specified. Such right has been exercised for the reason that despite being a National Highway, it was inadvertently mentioned in the advertisement that the location of the site was on State Highway. The applicants thus proceeded to make their offer on that basis. It therefore cannot be said that the right to withdraw the location has been exercised for non-existent reasons or that it is arbitrary in any manner. There are no allegations of malafides against

the respondent.

6. In view of aforesaid, we do not find that any relief can be granted to the petitioner. If any fresh advertisement is issued by the respondent, the petitioner is free to respond to the same in accordance with the terms and conditions thereof.

The Writ Petition is therefore dismissed with no order as to costs.

(Urmila Joshi-Phalke, J.)

(A. S. Chandurkar, J.)

Asmita