

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

WRIT PETITION NO.3650 OF 2020

SHRIKISAN BHAGWATRAO LONKAR
VERSUS
THE UNION OF INDIA AND OTHERS

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Advocate for Petitioner : Mr. M S Indani
Advocate for Respondents : Ms. Anjali Dube (Bajpai)

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CORAM : NITIN W. SAMBRE & S. G. CHAPALGAONKAR, JJ.

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Reserved : March 28, 2023
Pronounced on : April 12, 2023

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ORDER :- (Per S.G. Chapalgaonkar, J.)

1. The petitioner approaches this Court under Article 226 of the Constitution of India seeking directions against respondent nos.2 and 3 to issue the Letter of Sanction and allotment of Retail Outlet Dealership (Petrol Pump) in land gat no.311 and 312 situated at village Harki Nimgaon, Tq. Majalgaon, District Beed.

2. The contention of the petitioner is that, in pursuance of an advertisement dated 24.11.2018 issued by respondent no.2 inviting proposals for Retail Outlet Dealership (Petrol Pump), the petitioner submitted online application dated 21.12.2018 in prescribed format

for location and place mentioned at Serial No.1396 in the said advertisement. On 4.2.2019 respondent no.3 communicated that he has been qualified for the selection of Retail Outlet Dealership (Petrol Pump) and asked him to remain present personally for the Draw of Lots. On 19.7.2019 the Draw Of Lots taken place. The petitioner received online communication dated 20.7.2019 declaring that he has been successful on the basis of Draw of Lots. He was also asked to remit on-line payment of Rs.50,000/- towards initial security deposit and also to submit the documents mentioned in the said communication.

3. The contention of the petitioner is that he submitted requisite documents in the office of respondent no.3 including a registered lease-deed of the land bearing gat no.311 and 312 of village Harki Nimgaon which is adjacent to National High Way no.61, which is suitable to the location for installation of Retail Outlet Dealership (Petrol Pump). The petitioner further contend that despite submission of the requisite

documents, fulfilling necessary criteria, the respondents did not issue him a letter of Sanction hence, he had approached this Court by filing writ petition no.11137 of 2019. During pendency of said writ petition, vide communication dated 19th August, 2019 it was informed that, his candidature is rejected. In light of said communication, writ petition was disposed off with liberty to agitate his candidature in appropriate proceeding. The petitioner filed appeal against rejection of his candidature before respondent no.3, however, he was unsuccessful in getting the letter of allotment.

4. In response to the notice of this writ petition, respondent nos.2 and 3 filed affidavit-in-reply contending that the petitioner mentioned in his application form that he is offering land from gat no.102 as described in his application. He represented that he is in the possession of the land documents and a report from the Advocate to qualify candidature under Group-I. Petitioner also submitted declaration in column no.16 of the application to the effect that, if the

information/declaration given by him is found to be untrue/incorrect/false, the Corporation is entitled to withdraw the letter of intent/terminate dealership, if already appointed. It is further contended that the land details mentioned in the application shows that he has offered land bearing gat no.102 owned by Bhagwat Lonkar. However, on 25.7.2019 submitted document of land gat no.311 having registered lease-deed dated 21.12.2018. Considering the inconsistencies in the information submitted in the application and the documents actually submitted by the petitioner, it was found that the petitioner has misrepresented his eligibility for consideration from Group-I. Accordingly, the petitioner was informed vide letter dated 19.8.2019 that his candidature is rejected.

5. Mr. Indani, learned Advocate appearing for the petitioner would submit that the petitioner possesses the requisite qualification for selection in terms of the advertisement issued by the respondents. The petitioner has submitted documents relating to the land

possessed by him including registered lease-deed. He was declared successful in the Draw of Lots, however, further letter of allotment was not given to him without justifiable reasons. He urge to allow the writ petition and issue directions against respondent nos.2 and 3 to issue allotment letter.

6. Ms. Anjali Dube (Bajpai), learned Advocate appearing for respondent nos.2 and 3 would vehemently submit that the petitioner failed to furnish the documents relating to the land offered, in tune with his application dated 21.12.2018. She would submit that the petitioner in his application offered land from gat/survey number 102 abutting to the National Highway No.61 near Marfala Fata owned by his father. However, submitted the lease agreement dated 25.7.2019 in respect of land gat no.311 owned by Rangnath Babarao Shinde and another. As such, he was not possessing the land offered in the application. In that view of the matter, the candidature of the petitioner has been rejected.

7. We have considered the submissions advanced by the learned Advocates appearing for the respective parties. We have appreciated the documents on record. The petitioner, in response to the advertisement issued by respondent no.2 for allotment of Retail Outlet Dealership (Petrol Pump) submitted his online application dated 21.12.2018. Perusal of the column no.13 of the said online application pertaining to land details (Group-I) would show that the petitioner has offered land owned by Bhagwat Jagannath Lonkar/his father situated at gat/survey no.102 and represented that he is eligible for consideration from group-I. He has signed a declaration that the information given in application is true and correct. Considering the details as provided in the application, the candidature of the petitioner was considered from Group-I i.e. persons holding the ownership of land offered or the long term lease as on the date of the application. However, it appears that after receiving the letter of allotment, the petitioner submitted registered lease deed dated 25.7.2019 executed by Rangnath Baburao Shinde and

another in respect of the land from gat no.311. Considering this discrepancy, vide impugned communication dated 19.8.2019 the petitioner was informed that documents submitted by him are not valid for considering him under Group-I. He may get considered for selection alongwith Group-III applicants as per guidelines.

8. Pertinently, the petitioner was neither the owner of the offered land as on the date of the application nor he was holding the long term lease. The application form itself contains declaration that, in case, the information given in the application is found to be incorrect his candidature is liable to be cancelled. The clause no.15 (c) of the application contains undertaking by the applicant. Sub-clause 'c' states as under :-

“c. I am fully aware that if I am unable to provide suitable site mentioned above for setting up of the Retail Outlet as per the Oil Company's standard layout, then the allotment of dealership made to me will be cancelled.”

9. It is trite, once under the guidelines, it is mandatory for the applicant to have the ownership of the offered land or long term registered lease document at the time of filing of the application, in absence of such requirement, the candidature of the applicant is liable to be cancelled. The issue is no more resintegra. This Court in **Writ Petition No.2618 of 2020 (Jayant Shahuraj Sonawane Vs. Indian Oil Corporation Ltd., and another) vide order dated 27.8.2021** in paragraph no.17 observed thus :-

“17. It was, therefore, the specific requirement of the terms of the advertisement that the petitioner should have had the lease deed registered on the date he offered his candidature for the retail outlet dealership. There being no registered instrument as on the last date of submitting application, the petitioner is precluded from contending that the notarized lease agreement would amount to sufficient compliance of the terms of the advertisement bearing in mind section 47.”

10. Issue has been dealt with by the Supreme Court of India in the matter of **Bharat Petroleum Corporation Ltd and ors. Vs. Swapnil Singh** arising out of SLP Civil No.15953-15954/2014 decided on 8.9.2005.

11. Again, the Division Bench of this Court in recent order dated 10.3.2023 passed in **Writ Petition No.895 of 2020 Kalpana Vinod Chate Vs. Bharat Petroleum Corporation Ltd and another** categorically held that in case of the change of gat number in respect of the land offered, for Retail Outlet, the Corporation is justified in rejecting the candidature.

12. In view of the aforesaid observations as well as the legal position, no indulgence can be shown under Article 226 of the Constitution of India in the decision taken by the respondents, thereby rejecting candidature of the petitioner. Hence, writ petition is dismissed. No order as to costs.

(S. G. CHAPALGAONKAR, J.)

(NITIN W. SAMBRE, J.)

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