

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

WRIT PETITION NO.6801 OF 2022

Manoj Shashikant Patwari,
Age : 51 years, Occu : Social Worker
R/o : House No.1-6-32,
Near Kharadekar Complex, JES College
Road, Jalna, District Jalna Pin

... **PETITIONER**

VERSUS

1. Union of India,
through Principal Secretary,
Ministry of Petroleum and Natural Gas,
A-Wing, Shastri Rajendra Prasad Road,
Azad Bhavan Road,
IP Estate, New Delhi – 110002
2. Indian Oil Corporation Ltd.,
Indian Oil Bhavan, State Office,
Bandra Kurla Complex,
Bandra East, Mumbai – 4000051.
3. Area Manager,
Indian Oil Corporation,
Indane Area Office, 1st Floor, Abish Tower,
Behind Baba Petrol Pump,
Mahavir Chowk, Aurangabad – 431001.
4. Anand Deshmukh,
Age : 40 years, Occu: Business,
Address – Vrundavan Colony,
Court Road, Jalna, District Jalna 431213
5. Civil Hospital Jalna,
Maharashtra Jeevan Pradhikaran,
Jalna, Samarth Nagar,
Jalna, District Jalna 431213.

... **RESPONDENTS**

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Mr. Niranjan M. Deshpande, advocate for the petitioner
Mr. R.R. Bangar, ASGI for respondent No.1 UOI
Mr. A.P. Bhandari, advocate for respondent Nos.2 and 3
Mr. V.R. Dhorde, advocate for respondents No.4

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**CORAM : MANGESH S. PATIL AND
S.G. CHAPALGAONKAR, JJ.**

DATE : 06.01.2023

FINAL ORDER :

Heard. Rule. Rule is made returnable forthwith. Learned ASGI waives service for respondent No.1. Learned advocate Mr. Bhandari waives service for respondent Nos.2 and 3. Learned advocate Mr. V.R. Dhorde waives service for respondent No.4. At the joint request of the parties, the matter is heard finally at the stage of admission.

2. The petitioner who himself had applied for distributorship of LPG at Jalna under open (CC) category for persons with disabilities in response to the advertisement published by the respondent No.2 Corporation but was unsuccessful in getting the allotment and even had failed to obtain any relief from this Court or the Supreme Court against such rejection, has filed this petition challenging the allotment of the LPG distributorship to the respondent No.4 in the same process, with the allegation that the respondent No.4 has procured the disability certificate on the basis of which the allotment was made, fraudulently.

3. Learned advocate Mr. Deshpande for the petitioner would vehemently submit that though the petitioner's earlier writ petition for the same relief was dismissed, he has filed the present petition on the basis of the evidence which subsequently surfaced and has become available to him whereby the disability certificate obtained by the respondent No.4 had been cancelled.

4. He would also submit that he could gather information that respondent No.4 was not eligible as he was in the government employment and though had tendered resignation had not submitted its acceptance which was mandatory. In view of such supervening events, the petitioner is entitled to reagitate the issue by way of this fresh petition. The Deputy Director of Health Services by his order dated 03.01.2022 has invalidated the original disability certificate and therefore the respondent No.4 was not eligible for allotment of LPG distributorship and it should be cancelled.

5. Learned advocate Mr. Bhandari for the respondent Nos.2 and 3 and Mr. Dhorde for the respondent No.4 would submit that the petitioner has been acting vindictively. His own claim for distributorship has been turned down up to the Supreme Court and without there being any *locus standi*, he is repeatedly questioning the allotment of the LPG distributorship in favour of the respondent No.4. They would submit that even if it is found that the respondent No.4 was not eligible for the allotment, that would not enure to the petitioner's benefit inasmuch as he has been finally held to be not entitled to such allotment.

6. Mr. Bhandari and Mr. Dhorde would further submit that as far as the allotment under question is concerned, the petitioner had disputed eligibility of the respondent No.4 by filing a writ petition which was dismissed by this Court with costs and still he has persisted with the allegations and has been filing repeated complaints with the respondent Nos.2 and 3. He had approached the Lokayukta under the Rights of Persons

with Disabilities Act, 2016 and the petition is liable to be dismissed *in limine*.

7. Mr. Bhandari and Mr. Dhorde would further submit that so far as the other ground being raised by the petitioner in respect of the eligibility of the respondent No.4 by pointing out that he was in the employment but had obtained the allotment fraudulently, firstly, by not disclosing the fact and, secondly, by tendering the resignation but not filing the document in accordance with the terms and conditions incorporated in the letter of intent, the respondent Nos.2 and 3 have already initiated an inquiry and the respondent No.4 has been served with a notice to show cause and in respect of which even he has challenged the show cause by way of a separate Writ Petition No.12370/2022. Once the respondent Nos.2 and 3 have initiated the inquiry in respect of this other ground, the petitioner would not have any *locus standi* to persist with even this allegation. They would submit that the law will take its own course depending upon the fate of the inquiry.

8. Admittedly, the petitioner's claim for allotment has been rejected by this Court which decision has been confirmed by the Supreme Court. Consequently, *ex facie* the petitioner has no *locus standi* to rake up the issue regarding eligibility of the respondent No.4 for the allotment.

9. Admittedly, the petitioner had also earlier challenged the allotment of distributorship in favour of the respondent No.4 in Writ Petition No.6710/2014 and this Court had dismissed it by imposing the costs of Rs.10,000/- on him. Pertinently, the challenge at that time was also on the

ground that the respondent No.4 was not eligible and the certificate of disability on the basis of which he had procured allotment was incomplete and the deficiency was allowed to be corrected by substituting a fresh document. It was also observed that the original certificate was bearing signature of three doctors as prescribed by the procedure and only a copy was signed by one doctor. It is also a matter of record that the petitioner had also raised a similar objection by filing a complaint with the competent authority constituted under the Rights of Persons with Disabilities Act, 2016 his complaint was dismissed and even his attempt to get it reviewed had failed.

10. It is to be borne in mind that the petitioner is not seeking a review of that order passed in Writ Petition No.6710/2014 on the basis of some evidence collected by him subsequently. Without having any *locus standi*, in spite of having failed in the first attempt, he is hellbent in approaching this Court and questioning the allotment in favour of the respondent No.4.

11. In the affidavit-in-reply filed on behalf of the respondent Nos.2 and 3 it has been specifically mentioned that the petitioner has been hearing them time and again. If this is the conduct of the petitioner, we are in complete agreement with the submissions of Mr. Bhandari and Mr. Dhorde that the petitioner has been settling a private score by resorting to various proceedings in spite of being aware that rejection of his claim for allotment has reached finality. He is seeking to invoke extraordinary jurisdiction of

this Court under Article 226 of the Constitution in the aforementioned facts and circumstances which are sufficient enough to dismiss the petition at the threshold, once again, by imposing exemplary costs.

12. This is not to say that we intend to grant any certificate to the respondents. If the respondent Nos.2 and 3 have now already taken up the issue regarding eligibility of the respondent No.2 on the ground that there is some material to point out that he had not disclosed being in the employment and also having not filed any letter of acceptance of his resignation, it should obviously reach to a logical conclusion. In fact admittedly, a show cause notice has been issued by the respondent Nos.2 and 3 to the respondent No.4 and he has been called upon to respond. He has simultaneously questioned its validity and legality in separate writ petition No.12370/2022. We have heard both these petitions simultaneously and after we expressed our disinclination to grant any relief to him he has withdrawn it. It would make abundantly clear that so far as the aspect regarding his entitlement to continue with the distributorship is already under cloud, we cannot make any observation that would have a bearing on the fate of the inquiry being undertaken by the respondent Nos.2 and 3.

13. Independently, even if we undertake a fresh scrutiny in respect of the recent developments in respect of the order dated 03.01.2022 being relied upon by the petitioner, the committee headed by the Deputy Director of Health constituted under the provisions of the Rights of Persons with Disabilities Act, 2016 has, as is pointed out by Mr. Bhandari, merely

recorded a finding that the certificates issued in favour of the respondent No.4 by the Civil Hospital, Jalna on 01.09.2010, 10.10.2013 were issued in the standard formats of the respondent No.2 Corporation and it is only after the validity period of those certificates was over that a fresh examination of the respondent No.4 was undertaken and he was found to be having 11% disability in the year 2015. It is pertinent to note that the disability certificate dated 01.09.2010 on the basis of which the respondent No.4 had applied for and was allotted distributorship has not been quashed and set aside muchless either by holding that it was obtained fraudulently or was not genuine one. Therefore even on facts, the allotment of distributorship to the respondent No.4 on the basis of the disability certificate furnished by him cannot be put to fresh scrutiny which even otherwise is not sustainable on facts.

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

(S.G. CHAPALGAONKAR, J.)

(MANGESH S. PATIL, J.)