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

27 WRIT PETITION NO.9154 OF 2023

**MAHESH ASHOKRAO AGHAV
VERSUS
THE UNION OF INDIA THROUGH ITS SECRETARY AND
OTHERS**

....

Mr S. D. Kotkar, Advocate for Petitioner

Mr Sanket Kulkarni, Advocate for Respondent No.2

**CORAM : RAVINDRA V. GHUGE
AND
Y. G. KHOBRAGADE, JJ.**

DATE : 31st July, 2023

PER COURT:

1. The Petitioner has approached this Court after Respondent No.2/Company passed the order dated 09/05/2023, cancelling the Letter of Intent (LoI) for non-domestic distributorship granted to the Petitioner, for the sole reason that the Petitioner did not get the godown and the showroom constructed within four months from the date of the LoI.

2. The Petitioner received an intention letter of Respondent No.2 to offer Non-Domestic LPG distributorship at Ghansavangi, Dist. Jalna, on the condition mentioned in the said document dated 01/09/2017. It is specifically directed under

(2)

Clause-1 that, the construction of the godown and the showroom, should be completed within a period of four months from the date of the letter. Both the godown and the showroom should be freely accessible through all-weather motorable approach road.

3. The contention of the Petitioner is that, the application for seeking permission to resort to a construction, was pending with Respondent No.4/Municipal Council, Ghansavangi. As the Municipal Council did not grant permission till today, the Petitioner could not construct a godown and a showroom. By the impugned order dated 09/05/2023, the Company has withdrawn the LoI in the light of Clause Nos.5.1, 5.2 and 9.1 of the terms of LoI, dated 01/09/2017. The Petitioner submits that, if the Municipal Council grants permission to construct, the Petitioner can raise such construction within four months.

4. The learned Advocate representing the Company submits on instructions that, the Petitioner did not construct the LPG storage godown for almost 5 years. It was specifically mentioned in Clause 5.1 that, the Petitioner will make the efforts to commission the LPG distributorship within four months of the LoI. In Clause 5.2, it is mentioned that, if there is no progress

(3)

made by the Petitioner to the satisfaction of the Company for getting the LPG distributorship commissioned, the offer would be withdrawn. In Clause 9, it is mentioned that the LoI is merely a Letter of Intent and cannot be construed as a 'firm offer' of distributorship to the Petitioner.

5. We have perused the record placed before us in the petition paper-book. The Petitioner has made the first application dated 21/11/2017, which is practically after 2 months and 21 days of the LoI, seeking permission for the LPG storage licence. On 29/11/2017, the Additional District Collector, Jalna, addressed the Executive Engineer, PWD, Partur, to forward certain documents along with maps, indicating, whether such a permission can be granted. By a communication dated 24/03/2022, the Petitioner was granted the 'no objection certificate' for having a LPG storage godown, subject to the 19 conditions mentioned in the said communication. Thereafter, the Petitioner approached the Chief Officer, Nagar Panchayat, Ghansavangi, vide communication dated 23/09/2022, which is practically after 6 months from receiving the 'no objection certificate'. A further reminder was forwarded on 06/10/2022.

(4)

6. The learned Advocate for Company draws our attention to Clause 7 of the LoI and submits that, the tenure of the distributorship agreement is initially for a period of 5 years and renewable every 5 years, subject to the examination of the performance of the distributorship by the Corporation. The tenure would remain in force for 5 years from the date of execution of the distributorship agreement and continue thereafter, until determined as per the rights mentioned in the distributorship agreement. He, therefore, submits that, as and when the Government would approve an advertisement for the said distributorship, since the 5 years period would now end on 01/09/2023 (actually 6 years would complete because LoI is of 01/09/2017), which is just one month away, the Petitioner may once again apply, and if the Company is convinced, it may consider his candidature for the distributorship.

7. In view of the above, **this petition is disposed off**, with a direction to Respondent No.4, to decide the application filed by the Petitioner, for seeking building permission, within 45 days from today. If the permission is granted, the Petitioner would commence the construction and intimate Respondent No.2 about the building permission and the commencement of the

(5)

construction. If Respondent No.2 has not allotted the distributorship to any other candidate, and no new non-domestic LPG distributorship is put up, the Petitioner's candidature may be considered. If a new advertisement is published by Respondent No.2, the Petitioner would be eligible to apply and Respondent No.2 would consider his candidature, in accordance with the Rules, if there is no other legal impediment.

(Y. G. KHOBRADE, J.)

(RAVINDRA V. GHUGE, J.)

sjk