

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

WRIT PETITION NO.12998 OF 2019

Dr. Dinkar s/o Raosaheb Raut
Age: 42 years, Occu: Medical Practitioner,
R/o: Kaji, Tq. Kaij,
District Beed.

... Petitioner

Versus

1. The Union of India
Through Secretary,
Ministry of Petroleum and Natural Gas,
Sansad Bhawan,
New Delhi

2. Hindustan Petroleum Corporation Limited
Through its
Head of Regional Office,
Solapur Retail Regional Office,
HPCL, Pakni IRD,
Near Railway Station, Pakni,
Solapur-413 255

... Respondents

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Mr. V. D. Salunke, Advocate for the Petitioner
Mr. Bhushan B. Kulkarni, Advocate for Respondent No.1
Smt. Dube Anjali (Bajpai), Advocate for Respondent No.2

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

Closed on : 23.03.2023

Pronounced on : 12.04.2023

FINAL ORDER :

1. The petitioner impugns the communication dated 26th September, 2019 issued by respondent No.2/Hindustan Petroleum Corporation Limited, Solapur, thereby rejecting claim of petitioner for allotment of retail outlet at Kaij, District Beed for the reason that petitioner is ineligible for

consideration from Group-1. The contention of the petitioner is that in response to an advertisement dated 25th November, 2018 inviting applications for retail outlet dealership at Kaij, he submitted online application dated 24th December, 2018 along with the documents showing long term lease agreement in respect of the land offered for construction of the retail outlet. The petitioner received a communication dated 26th June, 2019 stating that *“based on draw of lots for selection of Retail Outlet dealership for above location held on 26th June, 2019, he has been declared as selected”*. A separate letter dated 27th June, 2019 was also received to the petitioner asking him to submit the documents enlisted therein. The petitioner deposited Rs.50,000/- towards security amount and also submitted total eight (08) documents as indicated in the communication dated 27th June, 2019.

2. According to the petitioner, the impugned communication dated 26th September, 2019 has been issued by respondent No.2 informing that the candidature of the petitioner has been found ineligible for want of registered lease deed in respect of the land in question as on the date of the application.

3. Learned Advocate Mr. V. D. Salunke appearing for the petitioner would submit that the petitioner fulfilled the requirement as per the advertisement dated 25th November, 2018 issued by respondent No.2. He would submit that the requisite documents, including registered long term lease of offered land dated 4th July, 2019 were tendered. He would further submit that the advertisement dated 25th November, 2018 nowhere prescribes that the applicant must possess registered long term lease as on the date of application. He would submit that petitioner submitted the long term lease document upon his selection. As such, the reason given in the impugned communication is beyond the terms of the advertisement.

4. Smt. Anjali Dube learned Advocate for respondent No.2 would submit that the petitioner is bound by the clauses of guidelines for the selection which are part and parcel of the advertisement. She would submit that the petitioner submitted the long term lease deed dated 2nd July, 2019 in respect of the land in question. She invites attention of this Court Clause No.4 prescribing eligibility criteria for an individual applicant. The relevant part of Clause No.4 (v) (a) & (k) reads thus:

“(v) Land (Applicable to all categories):

a) The land should be available with the applicant as on the date of application and should have minimum lease of 19 years and 11 months (as advertised by respective oil company) from the date or after the date of advertisement but not later than the date of application.”

k) Each applicant will have to declare, in the application form, the category under which offered land falls. Supporting the above, confirmatory letter from an advocate (Appendix III B) giving details of the current ownership, documents relied upon and the category under which the land falls (Group 1 or Group 2), as on the date of application, is also to be furnished as and when advised. The Group under which the applicant’s land falls, would be determined based on the declaration given in the applicant and confirmatory letter from the advocate regarding the same.”

5. Relying on language of the aforesaid clauses, Smt. Dube would submit that the petitioner represented in his application that he holds long term lease in respect of the land bearing Gat No.412/A owned by Rajbhau Motilal Kalegore. The date of registered lease deed is mentioned as 24th December, 2018. The application form contains a declaration of the petitioner along with supporting affidavit confirming that the contents of the application are true and correct. Considering the application details pertaining to the land offered by the petitioner, his candidature was positively considered and the communication was issued regarding his selection.

6. She would further submit that the petitioner furnished documents to the Committee for verification in response to his selection. It was noted that the lease deed of the offered land was registered on 2nd July, 2019 i.e. after submission of the application which is inconsistent with land offered in application as per Appendix – III-B. As per clause 4 (v), the applicant who claims from Group-1 must have the land owned or leased under long term registered lease deed as on date of submission of the application supported with certificate of advocate. The applicant was non compliant of the aforesaid requirement. He had furnished misleading information for consideration from 'Group-I'. In view of the aforesaid facts, the communication dated 26th September, 2019 has been issued by Scrutiny Committee informing the petitioner that the land documents submitted by him are not valid for considering his claim in Group-1 as the land lease agreement is after the date of application.

7. We have appreciated the contentions of the learned Advocates appearing for the parties along with the documents tendered before us.

8. It is not in dispute that the petitioner submitted his application dated 24th December, 2018 in response to the advertisement issued by respondent no.2/HPCL. In clause No.13, he mentioned land details (Group-1) with particulars of his holding. The date of registered lease deed mentioned as 24th December, 2018 in respect of land Gat No.412/A that stands in the name of Rajbhau Motilal Kalegore. The petitioner signed a declaration confirming that the information given in the application is true and correct and any wrong information will make him ineligible for the retail outlet dealership. It appears that the petitioner entered into the lease agreement with Mr.Rajbhau Motilal Kalegore on 2nd July, 2019 and long term lease has been registered on the same day with the office of Sub-Registrar at Kaij. It is, therefore, evident that as on the date of submission of application, the petitioner was not holding a registered document of long term lease in

respect of land in question. The eligibility criteria for an individual applicant has been provided under the guidelines. The Clause No.4 (v) (a) stipulates that the land should be available with the applicant as on the date of application and should have minimum lease of 19 years and 11 months from the date or after the date of advertisement but not later than the date of application. Clause No.4 (v) (d) stipulates that the applicant(s) under Group-1 should have documents to establish ownership of land offered for the dealership as on the date of application such as :

** Registered Lease deed for minimum period of 19 years and 11 months (as advertised by respective oil company).*

It is evident that the petitioner did not comply aforesaid requirement. He submitted his application on 24th December, 2018. However, he got registered lease deed on 2nd July, 2019 i.e. after submission of the application.

9. Pertinently, the petitioner has stated in application that he holds the offered land under registered lease deed dated 24th December, 2018 from Gat No.412/A owned by Rajbhau Motilal Kalegore. The contents of the application are supported by declaration with affidavit. Apparently, the information in the application is misleading as the petitioner was not holding any long term registered lease deed as on 24th December, 2018 as has been indicated in his application. The respondent No.2 is, therefore, justified in relying upon the Clause No.4 (b) (k) of guidelines, that stipulates requirement of registered long term lease as on the date of application for consideration from Group-I.

10. This Court has interpreted the clauses of the guidelines/brochure published by HPCL in Writ Petition No.2618/2020 [Jayant Shahuraj Sonawane Vs. Indian Oil Corporation and Anr.], and observed thus:

“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 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.”

11. The similar view has been reiterated by this Court in the recent judgment delivered in Writ Petition No.895/2020 [Kalpana Vinod Chate Vs. Bharat Petroleum Corporation Ltd. & Another] decided on 10th March, 2023. Pertinently, the Supreme Court of India in the matter of **Bharat Petroleum Corporation Ltd. & Ors. Vs. Swapnil Singh** in Civil Appeal Nos.6928-6929/2015 dated 8th September, 2015 decided the same issue holding that the applicant must hold the long term registered lease as on the date of application.

12. In view of the aforesaid discussion, we hold that there is no merit in the writ petition. Hence, the writ petition is dismissed.

(S. G. CHAPALGAONKAR, J.)

(NITIN W. SAMBRE, J.)