REPORTABLE

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**WRIT PETITION NO. 4236 OF 2024**

Mohan Ananda Bodre
Age: 56 years, Occ: Agriculture & Business, R/o. Plot No. 16, Sudarach Colony, Near Agrasen School, Sakri Road, Dhule, District – Dhule ...Petitioner

**Versus**

Indian Oil Corporation Limited
Through its Chief Area Manager
Indane Area Office – Abhish Tower, 1st Floor, Behind Baba Petrol Pump, Mahaveer Chowk, Aurangabad ...Respondent

...

Mr. S. P. Shah, Advocate for the Petitioner
Mr. A. P. Bhandari, APP, for the Respondent

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| **CORAM** | : | **RAVINDRA V. GHUGE & R. M. JOSHI, JJ** |
| **RESERVED ON** | : | **APRIL 23, 2024** |
| **PRONOUNCED ON** | : | **MAY 07, 2024** |

**JUDGMENT (PER RAVINDRA V. GHUGE, J)**

1. Rule. Rule made returnable and heard finally, by the consent of the parties.

2. Being aggrieved by the communication dated 08.01.2024, issued by the Respondent – Indian Oil

Corporation Ltd. ("**IOCL**"), holding the Petitioner to be ineligible for participating in the selection process, that the Petitioner has preferred this Writ Petition.

3. The Petitioner is an Ex-Serviceman. On his application, in response to the advertisement dated 01.09.2017, IOCL issued him a letter of intent dated 31.12.2018, considering his proposal as a distributor of LPG from the Ex-Serviceman category. According to the Petitioner, acting upon this letter of intent, he carved out an area of 10,000 sq.ft from his agricultural land, for construction of the godown by borrowing an amount of Rs. 7,20,000/-. He constructed the godown by spending around Rs.15,00,000/- and also developed a showroom by using a portion of his house no. 238. It is alleged that, earlier, IOCL, had wrongly cancelled the letter of intent after these developments. Therefore, the Petitioner had preferred Writ Petition No. 1445/2020. This Court, by order 06.09.2021, set aside the order of cancellation of the letter of intent.

4. Thereafter, on 08.01.2024, a communication was received by the Petitioner wherein it is mentioned that

he is ineligible for participation in the selection process on the ground that house no. 238, offered for setting up the showroom, did not belong to the Petitioner on the date of the filing of the application.

5. According to the Petitioner, house no. 238 is received by him in the family partition that was effected way back in the year 2005. It is claimed that the IOCL was satisfied about the suitability as well as the title of house no. 238 on verification of documents then available with the Petitioner. The brother of the Petitioner raised issue about the title of house no. 238, but IOCL did not find any merit in such complaint. Eventually, the letter of intent was cancelled, but for an altogether different reason. It is further pleaded that after the order in Writ Petition No. 1445/2020, the brother of the Petitioner again raised the issue with IOCL and on the basis of the said complaint, the impugned order came to be passed.

6. We have heard the learned Advocates for the both sides, extensively and have perused the pleadings and the documents on record.

7. The learned Counsel for the Petitioner has strenuously contended that IOCL has fallen in an error in not considering the fact that, previously on the same ground, an objection was raised by the Petitioner, which was not considered and now, without application of mind, the claim of the Petitioner for the LPG distributorship has been rejected. He drew our attention to the documents placed on record, more particularly, the deed of partition dated 13.05.2002. According to him, house no. 238 came to the share of the Petitioner. The record of the Grampanchayat indicates the same to be in his name and the taxes are regularly paid. According to him, the objection was raised by the brother of the Petitioner raising a doubt about the ownership of the Petitioner in respect of the house in which showroom is now set up by the Petitioner. IOCL was satisfied in respect of the contention of the Petitioner and as such, the objection raised then, by the brother of the Petitioner, was not considered as a ground for cancellation of the dealership.

8. It is claimed that, by the communication dated 19.11.2019, a show cause notice was issued to the Petitioner for cancellation of the distributorship on the ground that he is not permitted to induct any partner or make any change in the constitution of the proposed dealership, without prior approval from the Corporation. It is his further submission that IOCL has committed a serious error in observing that, the sale deed dated 14.09.2022, proves that at the time of making his application, the Petitioner was not having the ownership/title in respect of house no. 238. It is his further submission that IOCL ought to have taken into consideration the other factors including documents on record which clearly indicate that the Petitioner is the owner of the property and that for the purpose of perfecting his title, the sale deed is executed on 14.09.2022. It is further argued that the Petitioner has spent a huge amount on construction of the godown as well as for setting up the showroom in house no. 238 and therefore, it would be unjust on the part of IOCL to cancel the letter of intent on frivolous grounds.

9. The learned Counsel for the IOCL opposed the said submissions by referring to the contents of the sale deed dated 14.09.2022 wherein it is specifically stated that the vendor of the said document was the owner and was in possession of house no. 238, as on the date of execution of the sale deed i.e. 14.09.2022. He referred to clause 9.3, which permits withdrawal of letter of intent, if it is subsequently disclosed at any stage that the Petitioner has suppressed, misrepresented or made an incorrect or false statement. To support his submissions, he placed reliance on the judgment of this Court delivered in ***Jayant Shahuraj Sonawane Vs. Indian Oil Corporation Ltd and Another, Writ Petition No. 2618 of 2020 dated August 27, 2021.***

10. There is no doubt with regard to the fact that, a letter of intent was issued by IOCL for Gramin Vitrak LPG Distributorship at Mahal Pandhari, District Dhule, on 31.12.2010. Undisputedly, for the purpose of eligibility for such distributorship, any person should have ownership or atleast a registered long term lease agreement for the property wherein the godown/showroom can be located. The Petitioner, for the purpose of

seeking distributorship, has put forth his claim on the basis of the fact that he is the owner of the house no. 238, situated at village Ner. He placed reliance on an unregistered Deed of Partition, dated 13.05.2005.

11. *Prima facie,* perusal of the same does not indicate that house no. 238, was included in the exclusive share of Petitioner. The contention of the Petitioner is that the said house is described in this document as "ग्रामपंचायत घर नं .....वाडा संपूर्ण". This aspect cannot be gone into or decided in a Writ Petition, as it requires proof of facts to establish the same.

12. No doubt, the Petitioner has placed on record receipts issued by the Grampanchayat towards payment of taxes in respect of house no. 238. So also, a resolution passed by the Grampanchayat for registering the said house in the name of Petitioner, is also cited. However, though the Petitioner has heavily relied upon the registered sale deed dated 14.09.2022, in respect of said house, we find that the same actually disproves his claim of being the title holder of the said property purportedly on the basis of an earlier partition. Perusal of this sale deed indicates

that it has been executed by Purushottam D. Mali, the paternal Uncle of the Petitioner. Recitals of the said document clearly show that the house no. 238 was in ownership and possession of the vendor, till the date of the execution of the sale deed. It is now vainly canvassed and argued in futility, that the purpose of execution of the sale deed, was to enable the Petitioner to overcome the objection raised by his brother and to confirm his title over the said property.

13. In our view, such submissions, do not advance the case of the Petitioner, more particularly, when the document itself does not support his contention. There are no recitals to the effect that the Petitioner is admitted to be the owner of the said property and the document is executed only for the purpose of confirmation of the said fact. Since the said document is a registered document, in the face of the earlier purported partition deed not being registered, it would carry a presumption of genuineness of the document as well as the contents thereof, unless proved otherwise. There would be an obligation on this Court to read the

document as it is, unless otherwise established. Admittedly, such exercise is not possible in our Writ jurisdiction.

14. Though it is sought to be argued by the Petitioner that previously the objection raised by the brother of the Petitioner was overruled by the IOCL, we find no material placed on record to substantiate this contention. The Petitioner has not placed on record the reply filed by him to the show cause notice issued by the IOCL on the basis of the complaint made by his brother. The documents on record do not support the submissions of the Petitioner that IOCL had rejected the contention of the brother of the Petitioner and has unequivocally accepted the title of the Petitioner over house no. 238. We, therefore, are unable to persuade ourselves on the basis of the submissions of the Petitioner, that IOCL had accepted the title of the Petitioner over the said house and that the execution of the sale deed was only towards the confirmation of his title and not otherwise to create any fresh right in favour of the Petitioner on the basis of said document.

15. The question posed is as to whether it would open for the IOCL to revoke the letter of intent at this stage. In this regard, it would be material to take note of the letter and the relevant clauses set forth. Clause no. 9 reads thus:

> ***9. WITHDRAWAL OF LETTER OF INTENT***
>
> *9.1. This letter is merely a Letter of Intent and is not to be construed as a 'firm offer' of LPG Distributorship to you. If we find that the progress being made by you towards the commissioning of the LPG Distributorship or as above is not to our satisfaction, then this letter is liable to be withdrawn along with forfeiture of 10% of security deposit amount deposited by you with the Corporation.*
>
> *9.2. Our offer should stand automatically cancelled in case you have received Letter of Intent (LOI) for any other Dealership/LPG Distributorship/ RGGLV/ Sheheri Vitrak/ Rurban Vitrak/ Gramin Vitrak or Durgam Kshetriya Vitrak of either our Corporation or any other Public Sector Oil Marketing Company (OMC), in your individual capacity or by any other member of your 'Family Unit'.*
>
> *9.3. If any statement made in the application or in the documents enclosed therewith or subsequently submitted in pursuance of the application by you at any stage is found to have been suppressed /*

> *misrepresented / incorrect or false affecting eligibility, then the LOI is liable to be withdrawn without assigning any reason along with forfeiture of amount deposited by you with the Corporation before FVC and in case you have been appointed as a distributor, the distributorship is liable to be terminated along with forfeiture of security deposit remitted by you. In such cases you shall have no claim whatsoever against the respective Oil Company.*

16. Clause no. 9.3, thus, clearly shows that if any statement made in the application or in the document enclosed therewith is found to be false or incorrect etc, then the letter of intent is liable to be withdrawn without assigning any reasons, along with forfeiture of amount deposited by the Petitioner. This supports legitimacy on the part of IOCL, to revoke the letter of intent, in appropriate cases.

17. The Division Bench of this Court, in ***Jayant Sonawane*** (supra), has sustained the specific requirement set out in the advertisement, that the Petitioner should have had the lease deed registered on the date he offered his candidature for the retail outlet dealership. In case, there is no 'registered'

document on the date of submitting the application, the Petitioner is precluded from contending that the 'notarized' lease agreement would amount to sufficient compliance of the terms of the advertisement.

18. As held in Jayant Sonawane (supra), as on the date of application, the requirements as contemplated in the advertisement must be fulfilled. Having regard to the same facts in this case and the documents on record, the contentions of the Petitioner, do not deserve consideration. Merely because some expenses are incurred by the Petitioner would not make him eligible for the distributorship, if otherwise he is not entitled to the same, owing to legal impediments.

19. In view of the above, **this Writ Petition stand dismissed**. Rule is discharged.

**(R. M. JOSHI, J)** **(RAVINDRA V. GHUGE, J)**

Malani