



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 7028 OF 2024

Multajim Shameer Kureshi,
Age 23 years, Occ. Nil,
R/o. At Post Shendurwada,
Tq. Gangapur, District Aurangabad

...Petitioner

Versus

1. Indian Oil Corporation Limited,
Indian Oil Bhavan
G-9, Ali Yavar Jung Marg,
Bandra (East), Mumbai 400 051

2. Indian Oil Corporation Limited
Aurangabad Divisional Office,
Through Dy. General Manager,
Plot No.99, Indian Oil Bhavan
Jyoti Nagar, Aurangabad

...Respondents

.....
Mr. Nikhil S. Tekale, advocate for the petitioner
Mr. Anand P. Bhandari, advocate for the respondents
.....

AND
WRIT PETITION NO. 5212 OF 2024

Anandkumar s/o Raghunath Ghodeshwar
Age 53 years, Occ. Business,
R/o. At post Kandari, Tq. Bhusawal,
District Jalgaon

...Petitioner

Versus

1. The Union of India
Through its Secretary
Ministry of Petroleum & Natural Gas
Shashri Bhavan, New Delhi

2. The Chairman,

Indian Oil Corporation Ltd.,
New Delhi

3. The Head of Divisional Office
Indian Oil Corporation Ltd.
Aurangabad Divisional Office,
Plot No.99, Jyoti Nagar,
Aurangabad

...Respondents

.....

Mr. Sunil G. Magare, advocate for the petitioner

Ms. Sudha Chintamani, advocate for respondent No.1

Mr. Anand P. Bhandari, advocate for the respondent Nos. 2 and 3

.....

**CORAM : MANGESH S. PATIL AND
PRAFULLA S. KHUBALKAR, JJ.**

DATE OF RESERVING : 27.11.2024

THE JUDGMENT

DATE OF PRONOUNCING : 09.12.2024

THE JUDGMENT

JUDGMENT (MANGESH S. PATIL, J.) :-

Heard.

2. Rule in both the matters. It is made returnable forthwith. Learned advocates for the respective respondents waive service. At the joint request of both the sides, the matters are being decided finally at the stage of admission.

3. Though the petitioners are different, the contesting respondent i.e. the Indian Oil Corporation Limited, being the same and the petitioners' applications for retail outlet dealership (RO) in

respect of different locations have been rejected on the same ground, 'PAN No. mismatch', a common issue falls for consideration of this Court and in order to avoid repetition, both these matters have been heard together and are being disposed of by this common judgment and order.

4. The issue involved is, as to if the impugned rejections on the ground of 'PAN No. mismatch', is a rectifiable or a non-rectifiable deficiency.

5. The learned advocates for the petitioners in both the petitions would submit that till the present process in which the petitioners had applied, there was no such guideline regarding non-rectifiable deficiencies. For the first time, it was introduced in the form of clause no. 23 and in sub-clause (n) a 'PAN No. mismatch' has been listed in the category of non-rectifiable deficiency in the brochure of 2023. A mere shuffling of the letters while mentioning PAN numbers being a human error could not have been treated as a non-rectifiable mistake. An opportunity ought to have been extended to rectify the error. They were not to gain anything by mentioning incorrect PAN number while applying for the retail outlet dealership. The stipulation is harsh and arbitrary.

6. The learned advocates would refer to the following decisions:-

- i) ***Priya Kumari vs. Indian Oil Corporation Ltd.; (2020) 215 All IND CAS 669,***
- ii) ***Hina v/s Union fo India and others; (2016) 6SCC 293,***
- iii) ***Chairman and MD Central Bank of India Vs. Central Bank of India SC/ST Employees Welfare Association and others; AIR 2016 SC 326.***

7. *Per contra*, Mr. Bhandari, the learned advocate for the respondent - Indian Oil Corporation would submit that the brochure of 2023, expressly provides a list of non-rectifiable deficiency and 'PAN No. mismatch' is one of those. Since, admittedly, the petitioners in both the matters, having committed mistake, may be a human error, no deviation is permissible, rather not applying, guidelines would be arbitrary. No discretion vests with the Oil company. The condition has not been applied abruptly. The petitioners cannot question the legality of decision of the respondents to reject their candidature. They were aware about the clause and having participated without demur, they cannot even challenge vires of the clause. He would submit that the decisions which were rendered prior to the brochure of 2023, would not apply to the fact situation. There is no arbitrariness and not even *mala fides* have been attributed. The petitions be dismissed.

8. We have considered the rival submissions and perused the papers.

9. At the outset, it is necessary to emphasize the fact that there is no dispute as far as the facts are concerned. The petitioners had applied for retail outlet dealership pursuant to the advertisement issued by the respondent - Oil Company, which in turn, was bound by the conditions contained in the brochure of 2023. Clause No.23 gives a list of non-rectifiable deficiencies and sub-clause (n) thereof contains 'PAN No. mismatch/ incorrect PAN No./ PAN No. does not belong to the applicant'.

10. Though the petitioner in writ petition No. 7028 of 2024 has challenged its *vires*, on the ground that it is arbitrary, unjustified and unsustainable, it is apparent that after having participated and applied pursuant to the advertisement, without any demur, he cannot be permitted to question the clause. It is like taking a chance. Having failed to obtain the dealership he is now questioning the *vires* of the stipulation. It is trite that the participants in the selection process cannot be permitted to question the terms and conditions in the selection once they have participated. This is clearly an afterthought. We therefore, cannot permit the petitioner from writ petition No. 7028 of 2024, to question the *vires* of clause 23(n) of the brochure of 2023.

11. Though it is a human error, indeed it is an error committed by the petitioners in mentioning the PAN number. Since it is a matter of competition and selection, allowing the candidates like the petitioners, giving some lee-way, by relaxing a condition, would be to the prejudice of the other participants in the process who have applied for the dealership. So long as the condition has been applied uniformly and when it is not a matter of arbitrariness in application of the condition, this Court, in exercise of the limited power under Article 226 of the Constitution of India, cannot interfere in the matter of selection process. No fault can be found with the impugned decision / communication, thereby rejecting the petitioners' applications for awarding retail outlet dealership.

12. In none of the matters cited by the learned advocates for the petitioners viz. **Priya Kumari (supra)**, **Hina (supra)** and **Chairman and MD Central Bank of India (supra)**, the issue similar to one before us, was obtaining. There was no guideline similar to clause No. 23(n) in question and, therefore, none of these matters are similar to the cases cited by the learned advocates for the petitioners. Therefore, the petitioners are not entitled to seek reliance on those decisions even by way of analogy. When the brochure of 2023 expressly stipulates and enlists non-rectifiable deficiencies, the petitioners are not entitled to derive any benefit from

these decisions.

13. As against this, the learned single Judge of the High Court of Punjab and Haryana, in the matter ***Gaurav Gupta vs. Bharat Petroleum Corporation Limited and others***; in ***CWP No. 6000 of 2024*** (decided on 07.05.2024), in similar set of facts, has rightly refused to grant any relief to the petitioner, who was similarly placed as that of the petitioners before us.

14. The upshot, the petitioners are not entitled to either question the *vires* of clause No. 23(n) of the brochure of 2023 and cannot question rejection of their applications.

15. There are no merits in both the writ petitions.

16. The petitions are dismissed.

17. Rule is discharged.

(PRAFULLA S. KHUBALKAR, J.)

(MANGESH S. PATIL, J.)

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