



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

915 WRIT PETITION NO.799 OF 2024

Sushil Madhukar Sathe,
Age 36 yrs., Occ. Agri.,
R/o Bramhani, Tq. Rahuri,
Dist. Ahmednagar.

... Petitioner

... Versus ...

- 1 The Union of India,
Through its Secretary,
Petroleum Ministry,
New Delhi.
- 2 Bharat Petroleum Corporation Limited,
Through its Territory Manager (Retail),
A/P Akolner, Tq. & Dist. Ahmednagar,
Maharashtra – 414 005.
- 3 Arun Vishnu Kanade,
Age Major, Occ. Agri.,
R/o Bramhani, Tq. Rahuri,
Dist. Ahmednagar.

... Respondents

...

Mr. VS.B. Tarde, Advocate for petitioner

Mr. R.B. Bagul, AGP for respondent No.1

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CORAM : SMT. VIBHA KANKANWADI &
S.G. CHAPALGAONKAR, JJ.

DATE : 19th JANUARY, 2024

ORDER : (PER : SMT. VIBHA KANKANWADI, J.)

1 Present petition has been filed for following reliefs :

“B) By issuing writ of certiorari or any other appropriate writ, order or directions the impugned communication/order dated 09.03.2023 issued by the respondent No.2 be quashed and set aside. Consequently, the respondent No.2 be directed to award retail outlet dealership in favour of the petitioner at village Bramhani, Tq. Rahuri, Dist. Ahmednagar (advertise at Sr.No.498) in view of the advertised on 09.07.2014.

C) By issuing writ of certiorari or any other appropriate writ, order or directions the impugned communication/order dated 09.03.2023 issued by the respondent No.2 be quashed and set aside and quashed and set aside the selection of respondent No.3. Consequently, the respondent no.2 be directed to award retail outlet dealership in favour of the petitioner at village Bramhani, Tq. Rahuri, Dist. Ahmednagar (advertise at Sr.No.498) in view of the advertised on 09.07.2014.

D) Hon’ble Court may be pleased to issue a Writ of Certiorari or any other Writ, Order or Direction in the nature of Certiorari thereby kindly to hold and declare that the whole allotment process of retail outlet dealership at village Bramhani, Tq. Rahuri, Dist. Ahmednagar (advertise at Sr.No.498) is illegal, arbitrary, unjust, unsustainable and contrary to the provisions of the Dealer Selection Guidelines-2014.”

2 Heard learned Advocate Mr. S.B. Tarde for the petitioner and learned standing counsel Mr. R.B. Bagul for respondent No.1. The petitioner is invoking the constitutional powers of this Court under Article 226 and 227 of the Constitution of India to challenge the impugned order/communication letter dated 09.03.2023 issued by respondent No.2 on behalf of Bharat Petroleum Corporation Limited. Petitioner is also challenging the selection of respondent No.3 for retail outlet dealership at village Bramhani, Tq. Rahuri, Dist. Ahmednagar.

3 Learned Advocate for the petitioner has taken us through the documents and submitted that on the basis of advertisement dated 09.07.2014 for grant of outlet dealership in respect of village Bramhani at Sr.No.498 the petitioner had filled the form. The other persons had also filled the forms and after scrutiny the petitioner was held to qualify for draw of lots for selection of the retail outlet dealership. Thereafter, when draw of lots was taken, the petitioner was declared as successful candidate. However, one of the unsuccessful candidates filed complaint and raised objection for the selection of the petitioner. After making inquiry on the said complaint, the Investigation Committee of respondent No.2 found that the petitioner was not eligible for the retail outlet dealership and, therefore, it cancelled the selection of the petitioner by issuing communication dated 06.09.2017 and

respondent No.3 had filed intervention application bearing Civil Application No.3059 of 2022. This Court dismissed the petition as well as the application filed by respondent No.3. However, during the pendency of the said writ petition, respondent No.2 had issued letter 15.02.2018 to the petitioner to submit an offer for a suitable land in the advertised location before 14.05.2018. Thereupon a fresh offer/proposal for the alternate land was given by the petitioner. The said offer was given prior to the disposal of the writ petition by this Court on 06.09.2022. It appears that similar proposal was given by respondent No.3 also and both the fresh proposals submitted by petitioner as well as respondent No.3 were open for consideration in view of advertisement dated 09.07.2014. The proposal given by the petitioner has been rejected on the ground that the land is situated on State or National Highway, which is not covered under the guidelines. But the land offered by respondent No.3 i.e. Gat No.901 is also situated on National Highway and, therefore, it ought to have been rejected by respondent No.2. Hence, this petition.

4 The first and the foremost fact is that the petitioner's selection was the subject-matter in earlier writ petition i.e. Writ Petition No.12670 of 2017 and the said petition came to be dismissed by this Court on 06.09.2022. Now, merely because some offer was made by him, which was out of the

advertisement appears to have been rejected cannot be the subject-matter in this petition. His offer appears to have been rejected. He cannot get a fresh opportunity for consideration of the said proposal. If that proposal was given by him on 15.02.2018, then he could have pointed it out in his Writ Petition No.12670 of 2017 as it was pending till 06.09.2022. The petitioner is an unsuccessful candidate. His bid was not accepted as it was not as per the guidelines. Under the said circumstance, he could not now come with a prayer that even the proposal of respondent No.3 should be rejected.

5 It appears that the petitioner wants to say that as his proposal came to be rejected as the land offered was near the Highway, the land offered by respondent No.3 is also near the Highway. Attention is drawn to the observations by this Court in order dated 06.09.2022 in Writ Petition No.12670 of 2017 in respect of the interlocutory which runs as follows :

“We express no opinion on the eligibility or otherwise of the intervenor in respect of his location. In absence of any pleadings and in absence of any prayer with regard to consideration of alternate land offered by the petitioner, we cannot go into that question.”

6 We have considered the documents produced by the petitioner in that respect i.e. the land offered by respondent No.3. The maps do not show that there is State or National Highway going by the side of the land offered

by respondent No.3. Therefore, in absence of specific document, the petitioner cannot even take objection as regards the selection of respondent No.3. On both the counts the petition should fail at the threshold. Writ Petition stands dismissed.

(S.G. CHAPALGAONKAR, J.)

(SMT. VIBHA KANKANWADI, J.)

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