

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

203-2

CWP-18190-2022 (O&M)
Date of Decision: 07.02.2024

Shilpi Narwal

...Petitioner

Versus

Bharat Petroleum Corporation Limited

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr.Vijay Pal, Advocate and
Mr. Akash Lather, Advocate
for the petitioner.

Mr. Raman Sharma, Advocate
for the respondent.

JAGMOHAN BANSAL, J. (Oral)

1. The petitioner through instant petition under Articles 226/227 of the Constitution of India is seeking setting aside of order dated 09.08.2022 (Annexure P-28) whereby her candidature has been shifted to Group-3 from Group-1 category.
2. The petitioner pursuant to advertisement dated 25.11.2018 applied for retail outlet of Bharat Petroleum Corporation Ltd. The petitioner filed application dated 20.12.2018 under general category and in the application, the land owned by her husband along with other family members was disclosed. The petitioner was declared successful in the draw of lots. The petitioner deposited requisite initial security. The petitioner on

the asking of respondents submitted all the requisite documents still respondent-Corporation shifted the petitioner from Group-1 to Group-3.

3. Learned counsel for the petitioner submits that the petitioner offered land owned by her family members. There were three owners of the land i.e. husband, mother-in-law and brother-in-law of the petitioner. The mother-in-law of the petitioner passed away on 30.03.2020. The petitioner was not required to have consent letter in the form of Appendix III-A from co-owners of the land at the time of filing application whereas she was required to furnish as and when asked by BPCL. The petitioner on the asking of respondent furnished Appendix III-A from the joint owners of the land, thus, there was due compliance of the mandate of the brochure.

4. Per contra, learned counsel for the respondents submits that the petitioner offered land owned by three owners i.e. mother-in-law, husband and brother-in-law. The petitioner on the date of filing application was not having consent by way of Appendix III-A of the owners of land. The petitioner at a later stage submitted consent by way of Appendix III-A from her husband and brother-in-law. The consent form was furnished in 2021 and by that time, mother-in-law of the petitioner had already passed away. As per terms and conditions of the brochure, the consent form could be produced at a later stage, however, it must be in the possession of applicant at the time of filing application. The case of the petitioner is squarely covered by a Division Bench judgment of Bombay High Court in **Meenakshi Rajkumar Sonawane vs. The Regional Officer, Hindustan Petroleum Corporation Ltd., 2022 SCC OnLine Bom 3056** as well as judgment of this Court in **Pushpinder Marya and another vs. Bharat**

Petroleum Corporation Ltd. and another, CWP No.28939 of 2019, decided on 03.03.2020.

5. I have heard the arguments of learned counsel for the parties and perused the record.

6. The conceded position emerging from the record is that the petitioner pursuant to advertisement filed application on 20.12.2018. In the application form, the petitioner disclosed that land offered by her is owned by her husband whereas it was owned by three persons i.e. her husband, mother-in-law and brother-in-law. She was not having consent of all the owners by way of Appendix III-A at the time of filing application. Her mother-in-law passed away on 30.03.2020, thus, at the time of asking by respondent, there was no possibility to submit Appendix III-A of mother-in-law. The case of the petitioner is covered by brochure of 2018 issued by respondents. Clause 4 of the brochure deals with question of land to be offered by applicant. The relevant extracts of paragraph 4 are reproduced as below:

*4. ELIGIBILITY CRITERIA FOR INDIVIDUAL APPLICANTS - PROPRIETORSHIP / PARTNERSHIP
Common Eligibility Criteria for all Categories applying as Individual (as on date of application unless mentioned otherwise)*

(i)-(iv) xxx xxx xxx

(v) Land (Applicable to all categories):

The applicants would be classified into three groups as mentioned below based on the land offered or land not offered by them in the application form:-

Group 1: Applicants having suitable piece of land in the advertised location/area either by way of ownership / long term lease for a period of minimum 19 years 11 months or as advertised by the OMC.

Group 2: Applicants having Firm Offer for a suitable piece of land for purchase or long term lease for a period of minimum 19 years 11 months or as advertised by the OMC.

Group 3: Applicants who have not offered land in the application.

Applications under Group 3 would be processed/advised to offer land only in case no eligible applicant is found or no applicant get selected under Group 1 & 2.

In case land offered by all the applicants under Group 1 & Group 2 is found not suitable/not meeting requirements, then these applicant/s under Group 1 & Group 2 along with applicants under Group 3 (who did not offer land along with application) would be advised by the OMCs to provide suitable land in the advertised location / stretch, within a period of 3 months from the date of issuance of intimation letter to them through SMS/e-mail. In case the applicant fails to provide suitable land within the prescribed period or the land provided is found not meeting the laid down criteria, the application would be rejected.,

The other conditions with respect to offering of land are as under:-

- 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.*
- b) If the offered land is on Long term lease, then the Lease agreement should have a provision to sub-lease the land wherever the locations are advertised under Corpus*

Fund Scheme (CFS), Other Corporation Owned Sites ("A" / "CC" sites).

In case it is observed that the lease agreement for the land offered by the selected applicant does not have a provision to sub-lease the land, in such cases the selected applicant would be provided 21 days' time from the date of intimation through SMS/e-mail to make suitable amendment / addendum to the lease agreement and submit the same to the concerned OMC.

c) For Dealer owned sites ("B" / "DC" sites), the applicant should ensure that the land arranged by the applicant is either registered in the applicant's name or leased in favour of the applicant for a minimum period of 19 years and 11 months (as advertised by respective oil company), before issuance of LOA as per the conditions of LOL.

d) The applicant(s) under Group-1 should have documents to establish ownership of land offered for the Dealership as on date of application, such as:-

- Khasra / Khatauni or any equivalent revenue document or certificate from revenue official confirming status of the ownership of the land*
- Registered Sale deed/Registered Gift deed*
- Registered Lease deed for a minimum period of 19 years and 11 months (as advertised by respective oil company) .*
- Any other type of ownership / transfer deed document*
- Lease agreement or firm allotment letter issued by Government / Semi Government bodies*

e) The land owned by the family member(s) will also be considered as belonging to the applicant (Group-1) subject to producing the consent letter in the form of

affidavit (Appendix III A) from the concerned family member(s).

For this purpose family members would comprise of:-

(i) Self

(ii) Spouse

(iii) Father/Mother including Step Father/Step Mother

(iv) Brother/Sister/Step Brother/Step Sister

(v) Son/Daughter/Step Son/Step Daughter

(vi) Son-in-law / Daughter-in-law

(vii) Parents-in-law

(viii) Grand Parents (both maternal & paternal)

(Emphasis supplied)

7. From the perusal of above-quoted clauses of the brochure, it is evident that land owned by family members may be offered, however, consent letter in the form of affidavit Appendix III-A is required to be furnished. Clause 4 (v) (a) indicates that land should be available with applicant on the date of application. In case, land is owned by applicant, the registered sale deed should be in favour of applicant on the date of filing application and in case land is owned by family members, consent form should be available on the date of application.

8. In the application form, in Column No.13, there is a note which prescribes that in case land belongs to members of family, Appendix III-A should be available which is to be submitted when asked by Corporation. The petitioner in her application had disclosed that land is owned by her spouse whereas land was owned by three persons. In case, land is owned by more than one person, the applicant is required to get NOC from all the

persons, thus, the petitioner was supposed to disclose name of all the co-owners whereas the petitioner had disclosed that land was owned by her spouse. Column No.13 of application form along with its note is reproduced as below :

13. Land details – Group 1 (Copy of proof of ownership of land would be required to be submitted as and when advised by Bharat Petroleum Corporation Ltd.)

Name(s) of the owner of Land/ Lease holder	Relationship with applicant	Date of registration of sale deed/gift deed/ registered lease deed/date of mutation	Location of the land with respect to Reference point/ Land mark (Specify land mark/ Reference point and distance from the same	Khasra No/ Khatouni/ Gut no/ Survey No.	Dimensions of land		
					Frontage in metre	Depth in metre	Area (Sq.m)
Plot No.1							
SAMARJEET	SPOUSE	25-02-2012	ON GOHANA JIND ROAD 900 MTR FROM VILLAGE	62/21	67	60	4020

Note: In case land belongs to member of Family / Others, notarized affidavit as per Appendix - Ill A should be available which is to be submitted when asked by Bharat Petroleum Corporation Ltd. Each applicant should have a confirmatory letter from an advocate (Appendix - Ill B) giving details of the current ownership, documents relied upon and the category under which the land falls (Group 1 or Group 2) before submitting the application.

9. Column No.15 (b) of the application form provides that applicant must be in possession of supporting documents in original. Column No.15(b) of the application form is reproduced as below:

15. **UNDERTAKING BY THE APPLICANT**

(a) x x x x

(b) *I also confirm that I am in possession of the supporting documents in original in respect of the information given by me in this application and if selected, failure to present these documents in original will result in cancellation of selection due to submission of false/unsupported information in this application.*

10. From the conjoint reading of different clauses of the brochure as well as Columns of the application form, it comes out that an applicant is required to disclose detail of owners of land if land is not owned by him. He is further required to get NOC by way of affidavit from all the co-owners. Land may be owned by an applicant himself or it may be owned by him with others or it may be owned by family members without him being one of the co-owners. The Corporation/respondent has given multiple options to the applicants with respect to land.

11. The petitioner, in the case in hand, was not owner of the land offered by her and it was owned by three family members. The petitioner was not having consent by way of affidavit of all the co-owners on the date of filing application. The mother-in-law of the petitioner passed away on 30.03.2020. The petitioner in the application form disclosed that land is owned by her spouse whereas it was owned by three co-owners.

12. As cited by counsel for the respondents, the issue involved is squarely covered by judgment of Bombay High Court in **Meenakshi Rajkumar Sonawane’s case (supra)**. In the said case, the Bombay High Court has considered question of possession of Appendix III-A as well as

Appendix III-B on the date of application. The Court has held that if an applicant is not possessing Appendix III-A or Appendix III-B, applicant cannot be considered in Group-1. The relevant extracts of the judgment read as:

18. The petitioner was aware of the terms and conditions of the guidelines as well as specific condition stipulated in the application form. She was required to possess Appendix III - A and Appendix III - B “as on the date of application”, which were required to be submitted as and when called for by the respondent-corporation. If the petitioner indeed possessed the documents of Appendix III - A and Appendix III - B on the date of submission of her application i. e. on 29.11.2018, there was no reason for her either to execute the very same documents on 11.02.2019 or to submit them to the respondent-corporation. She has not disclosed the name of the officer, who allegedly asked her to execute the documents afresh or to submit the same. Therefore, we refuse to believe the theory put forth by the petitioner.

19. We therefore find that the respondent-corporation has rightly rejected the application of the petitioner. She was required to submit only those documents which were available and executed before the date of application i. e. 29.11.2018 when called for by e-mail dated 05.02.2019. As averred by the respondent-corporation in its affidavit in reply she submitted only the documents which were executed on 11.02.2019. The respondent-corporation has therefore rightly rejected her candidature.

20. In similar case of Rajendra Bapurao Hande (supra), this Court has held as under:

6. *At the time of filling the application online, the petitioner is not required to submit the documents. It is on the basis of the information given by the petitioner in the application, the respondent Corporation processes the papers. The petitioner, in no uncertain words, represented that he is to be considered in Group-1 and that he possesses Advocate's declaration to that effect. If the petitioner would have represented as on the date of filing of the application that the petitioner was not possessing the Advocate's declaration/letter, the petitioner's application could not have been considered from Group-1. However, the petitioner represented that he possesses the Advocate's letter and on the basis of that letter, the petitioner said his land offered, be considered in Group-1. On the basis of such representation, the petitioner was considered in Group-1. It is not disputed that as on the date of the application filled in by the petitioner viz. 25.12.2018, the petitioner was not possessing the Advocate's declaration. The petitioner could get Advocate's declaration on 24.06.2019.*

7. *The petitioner did not fill in the correct information in the application. This Court cannot exercise the jurisdiction in favour of a person who has filled in correct information and made wrong representation.*

13. The above-quoted judgment of Bombay High Court was challenged before Supreme Court which vide order dated 09.01.2023 has dismissed SLP.

14. The petitioner was not admittedly having consent of co-owners by way of affidavit of Appendix III-A at the time of filing application and she disclosed in the application form that her husband is owner of land whereas there were three owners of the land. The case of petitioner is squarely covered by afore-cited judgment of Bombay High Court.
15. In the wake of above discussion and findings, the present petition deserves to be dismissed and accordingly dismissed.
16. Pending miscellaneous application, if any, shall also stand disposed of.

07.02.2024

(JAGMOHAN BANSAL)
JUDGE

anju

Whether speaking/reasoned

Yes

Whether reportable

Yes