



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

Writ Petition No. 2044 Of 2024

Nitish s/o Ravindra Patil,
Age : 26 years, Occupation-Unemployed Post Graduate,
R/o. Near Bidar Naka, Vijay Colony,
Udgir-413517, Tq. Udgir,
Dist. Latur.

.. Petitioner

Versus

1. The Union of India,
Through Secretary, GOI,
Ministry of Petrochemicals,
New Delhi – 110001.
2. Bharat Petroleum Corporation,
Government of India Understanding,
Through Retail Territory Manager,
Solapur Retail Territory, POL Depot,
Near Pakani Railway Station, Pakani Post,
North Solapur, Solapur-413255.

.. Respondents

- * Mr. P.G. Godhamgaonkar Advocate for the Petitioner.
- * Ms. Nikita Gore, Standing Counsel for Respondent No.1/UOI
- * Mr. Anand P. Bhandari, Advocate for Respondent No.2

**CORAM : S.G. MEHARE AND
SHAILESH P. BRAHME, JJ..**

RESERVED ON : 15th JANUARY 2025

PRONOUNCED ON : 20th JANUARY 2025

J U D G M E N T (Per Shailesh P. Brahme, J.) :

. Rule. Rule is made returnable forthwith. Heard both the sides finally at the admission stage.

2. The Petitioner who is aspirant of retail outlet dealership, has challenged the letter dated 01.02.2024, declaring him to be ineligible for not uploading consent of all co-owners within stipulated period.

3. Petitioner applied for the outlet dealership in pursuance of advertisement issued by the Respondent No.2/Corporation. He claimed to be a joint owner of Survey No.33 situated at Nalgir, Taluka Udgir, District Latur. He was ready to offer the land which was of the joint ownership for the petrol pump. Respondent No.2/Corporation issued guidelines through Brochure for selection of dealers. In compliance of the same, except one co-owner, others had given consent. Despite that, just because one of the co-owners failed to give consent, the Petitioner was declared to be ineligible.

4. Learned Counsel Mr. Godhamgaonkar submits that Respondent No.2/Corporation adopted hyper technical approach. The guidelines are not mandatory in nature. Conjoint reading of Clause 4(vi) and (g) would show that consent of few co-owners would suffice the purport.

He would submit that liberal interpretation of the Clause needs to be drawn. It is further submitted that frontage of 50 meters is the requirement. Considering the total area of the land and number of co-owners, more than sufficient area of land would fall to the share of the Petitioner. There are other immovable properties for allotting shares to co-owners. Lastly it is submitted that no prejudice would be caused if Petitioner is allotted dealership.

5. Per contra, learned Counsel for Respondent No.2 Mr. Anand Bhandari adverts our attention to provision of 4, 6(m) and 23(k) of the Brochure to buttress the submission that consent of all co-owners is mandatory. He would submit that there are six co-owners and all were not consenting for offering a land for the retail outlet. Petitioner was granted time vide letter dated 25.01.2024 to remove the defect. He failed to rectify the defect within 21 days, and hence, he is rightly disqualified. He would further submit that the share of the Petitioner is not identifiable as there was no partition amongst the family members. The undivided family of the Petitioner is likely to create hindrance in smooth functioning of business in future. Hence the Petitioner is not entitled to any relief.

6. We have considered the rival submissions of the parties.

7. The Petitioner's claim is discarded by the Respondent No.2/Corporation for not submitting consent of all co-owners. Land Gut No.333 is owned by six family members of the Petitioner which is undivided. Admittedly one of the co-owners did not support the Petitioner for his venture of outlet dealership of petrol. It reveals from record that on 25.01.2024, the Petitioner was notified defect and extended opportunity to submit the document within stipulated time. The Petitioner was unable to submit the consent of all the co-owners.

8. The Petitioner is falling in category Group-I as per Clause 4(vi). It is relevant to reproduce Clause (g) of the Brochure :

"g) 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) from the concerned family member(s). Such consent letter in the form of affidavit should have been tendered by the concerned family member(s) on or before the date of application."

9. It is imperative to produce consent letter in the form of affidavit from the members of the family which is reflected in Clause (m). The eligibility criteria provided as per the Brochure would indicate that consent of all the family members having interest in the land shall be produced. It is not open for this Court to draw any liberal interpretation. Neither there is any discretion left with the Corporation to relax the condition or to adopt liberal approach. The

consequences of not removing the defects are provided by Clause 23(k) which is as follows :

"23. List of Non-Rectifiable Deficiencies in Applications :

The following deficiencies in the application form for Retail Outlet Dealer Selection are non-rectifiable and such applications will not be considered for further selection process.

a).....

b).....

.....

k) Rectifiable deficiency not corrected within the specified time (21 days)."

10. The conjoint reading of relevant clauses of the Brochure would lead to conclusion that consent of all the co-owners is mandatory. Its non-compliance would lead to ineligibility. Despite extending opportunity, the Petitioner failed to rectify the defect within stipulated period. The Respondent No.2/Corporation is justified in declaring the Petitioner as 'ineligible' by the impugned communication.

11. It is apparent that land Gut No.333 is joint and there are six co-owners. The share which is likely to be allotted to the Petitioner is unidentified. There is nothing wrong on the part of Respondent No.2/Corporation to ensure that the business should run smoothly and without any hindrance. The specific conditions are incorporated in the Brochure so as to avoid hardship and complications in future. We

are, therefore, of the considered view that the interpretation of the relevant clause suitable to the Petitioner, is not possible. The frontage of 50 meter is expected of the land offered for the dealership, but there is no provision to grant any leverage to the Petitioner.

12. We do not notice that there is any perversity or patent illegality in disqualifying the Petitioner from the selection process. The decision taken by the Respondent No.2/Corporation is in consonance with the provisions of the Brochure. It is not appropriate to cause indulgence in the process undertaken by the Corporation. The petition sans merit. Hence it is dismissed. Rule stands discharged.

[SHAILESH P. BRAHME]
JUDGE

[S.G. MEHARE]
JUDGE

13. After pronouncement of the judgment, learned counsel for the petitioner prays for continuation of the interim relief, which was granted by this Court on 21.02.2024. Learned counsel Mr. A.P.Nahar holding for Mr. Anand Bhandari for respondent No. 2 opposes the request.

14. As the interim relief is operating till final disposal of the matter, we find it fit to continue the same for further period of four (04) weeks.

15. Interim relief which was already operating shall be continued for four (4) weeks and it shall stand vacated automatically.

[SHAILESH P. BRAHME]
JUDGE

[S.G. MEHARE]
JUDGE

najeed..