



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 6075 OF 2024

Pallavi Vasantryao Kamble
@ Pallavi Nitin Tapse
Age: 39 years, Occu.: Business,
R/o Mauli Nagar, Pangari Road,
Beed, Tq. & Dist. Beed

..PETITIONER

VERSUS

1. Union of India
Through Ministry of Petroleum
New Delhi
2. Hindustan Petroleum Corporation Ltd.
Through its Managing Director,
17, Jamshedji Tata Road, Mumbai-20
3. The Regional Manager,
Hindustan Petroleum Corporation Ltd.,
HPCL, Pakani IRD, Near Railway Station,
Pakani, Solapur 413255

..RESPONDENTS

....
Mr. S.S. Gangakhedkar, Advocate for petitioner
Mr. S.S. Deve, Advocate for respondent no.1
Mr. A.P. Bhandari, Advocate for respondent nos. 2 and 3
....

CORAM : R.G. AVACHAT AND
SANDIPKUMAR C. MORE, JJ.
DATE : 26th MARCH, 2025

ORAL JUDGMENT (PER : R.G. AVACHAT, J.) :

1. Rule. Rule made returnable forthwith. Heard finally with consent of the parties.

2. The petitioner has filed the present petition for following main reliefs :-

“B) By an order of this Hon’ble High Court in the like nature of writ and/or appropriate order of direction, kindly quash and set aside the impugned communication dated 11.02.2024 and 21.05.2024 relating to the shifting of candidature of the petitioner into Group-III and consequently the application of the petitioner bearing No.HPC1695521455871, be considered positively.

C) By an order of this Hon’ble High Court in the like nature of writ and/or appropriate order or direction, kindly direct the respondent No.3 to decide the complaint dated 04.04.2024 submitted by the petitioner within stipulated period.”

3. Respondent No.2 – HPCL issued an advertisement dated 28th June, 2023 for allotment of Retail Outlet Dealership. The petitioner preferred an application from ST (Schedule Tribe) category. Since the land offered by the petitioner has HT (High Tension) line crossing, her application was turned down.

4. Learned counsel for the petitioner first took us through the brochure relating to scheme for allotment of the outlets. He adverted our attention to Item No. VI pertaining to land. Under that head, the applicants are classified into three groups as under :-

Ground – 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 10 years 11 months or as advertised by the OMC.

Ground – 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.

Ground – 3 : Applicants who have not offered land in the application. Only applicable for locations advertised under SC/ST category.

Applications under Group – 3 would be processed/advised to offer land (Annexure -D) only in case no eligible applicant is found or no applicant gets selected under Group – 1 & Group – 2.

5. Admittedly, the petitioner, in her application, offered the land. As such, initially she filed the application from the category of Group – 1.

6. Vide letter dated 23rd January, 2024, the petitioner was initially called upon to remain present at the land / site on 02nd February, 2024. Through SMS, the schedule was preponed to 28th January, 2023, for the reasons best known to the officials of HPCL. Learned counsel for the petitioner would submit that ‘Clause I – Land Evaluation’ in the brochure mandates that the provisionally selected candidate is required to be informed well in advance at least by ten days before the day of visit by the Land Evaluation Committee (LEC) for site evaluation. According to learned counsel for the petitioner, in this case preponement of the schedule took place within an hour’s time. HPCL has thus not adhered to its own norms i.e. Clause I of the brochure. He would submit that a breach thereof tantamount to arbitrariness. He would further submit that fortunately the petitioner could rush to the site in time and was present while the land was evaluated.

7. He relied on the Apex Court's judgment in case of ***State of Uttar Pradesh Vs. Sudhir Kumar Singh and Ors., (2021) 19 SCC 706***, wherein it has been observed thus :-

“70.2 State in its executive capacity, even in the contractual field, is under obligation to act fairly and cannot practice some discriminations.”

8. We can understand the plight of the petitioner. The fact is, however that the petitioner herself has condoned the fault on the part of HPCL. Had the land evaluation took place in the absence of the petitioner, the case would have been different. The petitioner has already been in the know of the fact that the land offered by her has HT line crossing, and therefore, was not suitable. The petitioner, therefore, cannot be allowed to turn around and say that the concerned Divisional Office did not inform her at least ten days before the day of visit by LEC for site evaluation.

9. Since the petitioner's land was not found to be suitable under Group - 1 category, her candidature was admittedly shifted to Group – 3 category. Then, learned counsel for the petitioner relies on Note 2 of the brochure, which reads thus :-

“In case of locations where the applicant has not offered the land in the application (Group-3) or if the offered land of all applicants under Group-1 & Group-2 got rejected due to not meeting the laid down criteria, then all such applicants shall be given an opportunity to offer land or alternate land (as the case may be) in the advertised location/stretch provided the applicant meet all

other eligibility criteria.

A communication through SMS/e-mail would be sent to these applicants to offer land/alternate land within a period of 90 days from the date of offer letter.

On receipt of advice to offer land from OMCs the applicant should submit land offer online and indicate the category under which the land falls (Group – 1 or Group – 2). Upon selection, the provisionally selected candidate would be required to upload all the relevant documents pertaining to the land offered along with consent letter in the form of affidavit (Appendix – III) and/or Power of Attorney (Registered), if applicable.

The applicants would be classified into two groups i.e., Group – 1 & Group – 2 based on the land offered by them.

In case the applicant(s) fail to offer land/alternate land within the specified period, the offer would be withdrawn, and application rejected under limitation to the applicant(s) through SMS/e-mail. Only one opportunity would be given to the applicant, either for offering land (if applicant has not offered any land along with application form) or for offering alternate land given to applicants of locations advertised under SC/ST category (if the land offered by the applicant is found to be not meeting the laid down criteria during Scrutiny/land evaluation/rejection of land after selection, for applicants who have offered land along with the application)."

11. According to learned counsel, since the petitioner belongs to reserved category, she ought to have been given ninety days period to offer alternate land. Respondent - HPCL did not issue her such letter and thus committed breach of the terms of its offer. He heavily relied on the last paragraph of Note 2 referred to hereinabove.

12. Since the applicant has offered the land in her application, there was no question of her to be considered in Group – 3 category since

beginning. In case, applicant in Group 1 and 2 gets rejected due to non meeting the laid down criteria, then such applicant is given an opportunity to provide other or alternate land in advertised location or within the stretch provided, if the applicant meets the other eligibility criteria. There were total eleven candidates from all the three groups besides four candidates from Group – 1. If we closely read first paragraph of Note 2 and interpret the same, it lead us to conclude that when candidature of the applicant from Group 1 and 2 is rejected on the ground of not meeting the laid down criteria, then and then only the candidates from Group 3 should be given an opportunity providing ninety days time to offer an alternate site/land. It is stated on affidavit that the applicant from Group 1 has fulfilled all the criteria, and therefore, the process for issuance of letter of intent is under process. Needless to mention, since the outlet was reserved for SC/ST category, necessarily the one who would be allotted the outlet, would be of SC/ST category only. The petitioner, therefore, cannot be heard to say that a reserved category candidate was subjected to injustice.

13. In view of above, we do not find any reason to grant the petitioner relief in this petition. Writ petition, therefore, stands dismissed. Rule is discharged.

(SANDIPKUMAR C. MORE, J.)

(R.G. AVACHAT, J.)

SSD