



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2447 OF 2025

Yogesh Waman Gaikwad

Age: 52 years, Occ: Business
R/a B-9/19, Best Rajdoot CHSL,
Anil Ubhare Marg, Best Colony,
Nr. Bus Depot, Ghatkopar East
Mumbai – 400075.

... Petitioner

Versus

Indian Oil Corporation Ltd.
Through its Marketing Division,
Maharashtra State Office
And also its Divisional Office
Goa Divisional Office (Marketing
Division), C-21, Bogda Road, P.O.
Harbour, Mormugoa, Goa-403803.

.... Respondent

Mr. S. M. Gorwadkar, Senior Advocate i/b. Mr. Niranjana Mogre,
for the Petitioner.

Mr. Sunil Gangan a/w Mr. Swapnil Shikhare i/b. RMG Law
Associates, for the Respondent.

***CORAM : ALOK ARADHE, CJ &
M. S. KARNIK, J.***

DATE : 22nd APRIL, 2025

JUDGMENT (PER M. S. KARNIK, J.) :

1. The challenge in this Petition under Article 226 of the
Constitution of India is to the communication dated 1st

January 2025. The Respondent - Indian Oil Corporation Ltd. ('IOCL' for short) rejected the Petitioner's application/candidature for petrol pump dealership of IOCL. The Petitioner while filling up the online application form, inadvertently committed a minor clerical/typographical error in typing the last numerical field of Hissa number of the land. Instead of Survey No.34/1/D/2/1, wrongly Survey No.34-1D/2/3 was typed.

2. The advertisement was issued by the IOCL on 20th June 2023. The petitioner submitted the application as an individual in Group 1 category (owner of land) on 14th September 2023. The draw of lots for selection of applications was scheduled on 25th September 2024. The Petitioner's candidature was provisionally selected on 26th September 2024. In the second email by IOCL, the Petitioner was asked to remit Rs.50,000/- towards initial security deposit and also to submit all the requisite documents. The Petitioner remitted the initial security deposit. The Petitioner submitted all the requisite documents including title documents and plot sketch.

3. By the impugned communication dated 10th October 2024 the Petitioner's application was rejected due to a minor

clerical/typographical error. The Petitioner made a representation against the rejection of his candidature on 19th October 2024. By the impugned communication dated 1st January 2025 the Respondent informed that its two member committee had scrutinised the application and found that there was discrepancy in the land details provided in the application form and the supporting documents.

4. Learned Senior Advocate for the Petitioner assailing the decision to reject the petitioner's candidature submitted that such rejection is on a hyper-technical ground. In support of the submissions, reliance is placed on the decisions of the Andhra Pradesh High Court in *Gosala Raju vs. The Indian Oil Corporation Limited and ors.*¹, *The Indian Oil Corporation Limited vs. Gosala Raju s/o Mohan Rao*² and the judgment of the Madhya Pradesh High Court in *Rajesh Parmar vs. Under Secretary, Petroleum Corporation and another*³.

5. On the other hand, Mr. Sunil Gangan, learned counsel for the IOCL submitted that the rejection was justified as under Clause 23(p) of the dealer selection guidelines, the

1 2021 0 Supreme(AP) 201

2 2022 0 AIR(AP)(NOC) 260

3 Writ Petition No.18769 of 2017 dated 26th March 2019.

defect in the application of the Petitioner falls under the category of non-rectifiable deficiencies. He submits that the Committee scrutinised the application and for valid reasons rejected the candidature of the Petitioner. Mr. Gangan was at pains to point out that the guidelines clearly stipulate that any changes in the land Survey number is not permissible and hence the decision of the Committee cannot be faulted as the same is in consonance with the guidelines. It is submitted that the Petitioner had adequate notice that no such change is permissible once the application is made. It is further submitted that the decision of the IOCL is strictly in accordance with the guidelines.

6. We have heard learned counsel. The Petitioner contends that there is a typographic error in the last numerical field of Hissa number of the land. Instead of Survey No.34/1/D/2/1, wrongly Survey No.34-1D/2/3 was typed. The guidelines on selection of dealers for regular and rural retail outlets through draw of lots/bidding process provides for list of non-rectifiable deficiencies in applications in Clause 23. Clause 23(p) reads thus :-

"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.

p) Changes in Khasra/Khatouni/Gut/Survey No. etc. of offered land.”

7. Having gone through clause 23(p), we are not inclined to agree with the submissions of learned counsel Mr. Gangan for IOCL. In our opinion, the decision of IOCL to reject the application on the grounds stated hereinabove is hyper technical. The guidelines nowhere provides that inadvertent errors which in no manner affects the material particulars of the details mentioned in the application cannot be corrected. It is not the case of the IOCL that as a result of this inadvertent error there is a change in the actual location of the land which is the subject matter of the application or that a different land is offered. In the present case the land is very much the same as indicated in the application; the same is of the ownership of the Petitioner. However, there was an inadvertent error in describing the last numerical field of the land parcel. Such error no way prejudices the IOCL. In our opinion, this is not a case covered by Clause 23(p) of the guidelines. There are no changes in survey number of offered

land, but this is a case of correction of an inadvertent error in small part of the description of the land, the land being the same. In the facts of the present case the clerical/typographical error sought to be correct will not fall within the ambit of Clause 23(p) of the guidelines to say that the defect in the application is a non-rectifiable defect.

8. Mr. Gangan relied upon the decision of the Aurangabad Bench of this Court in *Multajim Shameer Kureshi vs. Indian Oil Corporation Limited and another*⁴. The question there was whether the impugned rejection on the ground of PAN number mismatched, is a rectifiable or non-rectifiable deficiency. This Court in paragraph 11 observed as under :-

"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."

9. In our opinion, the decision in *Multajim Shameer*

⁴ Writ Petition No.7028 of 2024 decided on 9th December 2024.

Kureshi (supra) is distinguishable on facts. The present is a case which according to us is not covered by Clause 23(p) of the guidelines, as the Petitioner did not seek a change in the survey number but was in fact seeking correction of an inadvertent error in the last numerical field of the Hissa number of the land, the defect which cannot be said to be a non-curable one. We therefore hold that the defect in the Petitioner's application can by any stretch be a non-rectifiable deficiency.

10. The Petitioner's candidature was provisionally selected but only on the ground mentioned above is not being considered for the further selection. The Writ Petition is accordingly allowed in terms of prayer clause (a) which reads as under :-

"(a) That this Hon'ble Court be pleased to call for record and proceedings in respect of the Petitioner's application for Retail Outlet of the Petrol pump dealership bearing number IOC16946573633721 submitted with the Respondent and after going through the legality, validity and propriety of the impugned rejection of the said application by emails/communications dated 01.01.2025 & 10.10.2024, be pleased to quash and set aside the same and be further pleased to restore the Petitioner's application i.e. IOC 16946573633721 to file and direct the Respondent to process with the same in light of the representation dated 19.10.2024 in accordance with law."

11. No order as to costs.

(M. S. KARNIK, J.)

(CHIEF JUSTICE)