

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION***

WRIT PETITION NO. 1695 OF 2024

Rakesh Kumar Dubey ... Petitioner

Versus

Indian Oil Corporation Ltd. & Ors. ... Respondents

Mr. Ashish Dubey a/w Mr. Rahul Tripathi for the Petitioner

Mr. Chirag Mody a/w Mr. Sunil Gangan and Mr. Swapnil
Shikhare i/b RMG Law Associates for the Respondent No.1

Mr. Dashrath A. Dube a/w Mr. Upendra Lokegaonkar and
Mr. Sachidanand T. Singh for the Respondent No. 2

Mrs. Uma Palsuledesai, A.G.P for the Respondent No.3-State

Mr. Vivek Salunke a/w Mr. Ajinkya Jaibhave for the Respondent
No.4

***CORAM : REVATI MOHITE DERE &
DR. NEELA GOKHALE, JJ.
THURSDAY, 23rd JANUARY 2025***

PC :

1 Heard learned counsel for the parties.

2 By this petition, the petitioner seeks the following
substantive reliefs :

“a) Issue a writ, order or direction in the nature of Mandamus and quash the order by respondent no.1 allotting the plot of Jogeshwari, Vikhroli Link Road to LOI of respondent no. 4 and direct the Respondent No. 1 to allot the said plot of land as per the policy of respondent no. 1 by publishing an advertisement in the newspaper.

b) Issue a writ, order or direction in the nature of Mandamus and restrain the Respondent No. 1 for operation of petrol pump at the above plot by respondent no.4 and run the petrol pump by respondent no. 1 himself on coco basis till the disposal of this writ petition.

c) To terminate the LOI dated 16/02/2004 issued to respondent no. 4 since it is expired, non- existence and not renewed by competent authority.”

3 At the outset, learned counsel appearing for the respondent Nos. 1 and 4 raises a preliminary objection. They submit that the petitioner has suppressed the filing of an earlier writ petition being Writ Petition (Lodging) No. 5423/2022, in this Court. They submit that the prayers in the earlier petition are identical to those in the present petition. Learned counsel for the respondent Nos. 1 and 4 have tendered a copy of the order dated 21st July 2022.

4 Perused the papers. As noted aforesaid, the reliefs sought in the earlier petition are identical to those sought in the present petition. However, in para 48 of the present petition, the petitioner has averred as follows :

“48. The Petitioner has not filed any other Petition on subject matter of this Petition in any other Court or in the Hon’ble Supreme Court of India.”

5 In the entire petition, there is no mention of the earlier petition i.e. Writ Petition (Lodging) No. 5423/2022, despite this Court (Coram : S. V. Gangapurwala and S. V. Marne, JJ.) having passed an order on 21st July 2022 in the earlier petition. The said order reads thus :

“1. The precipe is moved for the withdrawal of the Writ Petition.

2. When in the morning session the matter was called out, none appeared for the Petitioner and the matter was kept back.

3. Petitioner. In the afternoon session again none appears for the

4. The learned counsel for Respondent No.1 is present.

5. It is submitted that the allotment is already made.

6. In view of the precipe moved for withdrawal of the Writ Petition, the Writ Petition stands disposed of as withdrawn.”

6 When questioned, learned counsel for the petitioner was unable to justify the non-disclosure of the earlier petition.

Upon perusal of the order dated 21st July 2022 passed by this Court (Coram : Gangapurwala and Marne, JJ.) in Writ Petition (Lodging) No.5423/2022, it appears that the earlier petition was withdrawn and disposed of as such. No liberty was sought or granted by the Court whilst disposing of the said petition. The reliefs sought in the earlier petition were as follows :

“a) That this Hon'ble court be pleased to call for decision taken by Respondent NO.1 for allotment of any retail outlet at the subject land situated at viz being the plot at survey no. 11/12 at Jogeshwari Vikhroli Link Road, plot belonging to Aarey milk colony, and if decision is not taken then this Hon'ble court be pleased to direct Respondent No.1 to expedite the process of allotment of retail outlet at the

subject land situated at viz being the plot at survey no. 11/12 at Jogeshwari Vikhroli Link Road, plot belonging to Department of Dairy, Govt of Maharashtra now purchased by Respondent no.1 in 2016.

b) That this Hon'ble Court be please to appoint any officer of this Hon'ble Court to conduct and supervise the procedure for allotment of retail outlet at plot no. 11/12, at Jogeshwari vikhroli link Road belonging Department of Dairy, Govt of Maharashtra now purchased by Respondent no.1.

c) That this Hon'ble Court be please to direct Respondent no. 1 to consider the petitioner proposal with regard to allotment of retail allotment in respect of plot no. 11/12, at Jogeshwari vikhroli link Road belonging to Department of Dairy, Govt of Maharashtra now purchased by Respondent no. 1 or make fresh advertisement in the news paper for General Public for allotment of dealership at JVLR Road.

d) Pass any order in the interest of justice, equity and good conscience as this Hon'ble Court deems fit and proper.”

7 This is the second petition regarding the same subject matter as the earlier petition, seeking similar / identical reliefs. As noted above, in para 48 of the present petition, it has been falsely averred that no other petition has been filed on the subject matter. This conduct amounts to gross misconduct on the part of

the petitioner. Additionally, this petition was filed by the same lawyer who had filed the earlier writ petition.

8 Considering the aforesaid, we dismiss the petition with costs quantified at Rs. 50,000/- to be paid by the learned counsel for the petitioner to the **Bar Council of Maharashtra and Goa Advocate Aid Fund** Account No.10996711937; Bank Name: State Bank of India; Branch Name: Mumbai Main Branch; IFSC Code : SBIN0000300. The said costs to be paid within two weeks from today.

9 Petition stands disposed of.

DR. NEELA GOKHALE, J.

REVATI MOHITE DERE, J.