



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO.7239 OF 2019

Dilip S/o Bhagwan Kalamkar, Tah. Saoner, Dist. Nagpur

-vs-

Gram Panchayat Sillewada, Thr. Secretary, Office of Gram Panchayat Sillewada, Panchayat
Samiti, Saoner, Dist. Nagpur and ors.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and the Registrar's orders.

Court's or Judge's Orders.

Shri Y. J. Maheshwari, Advocate for petitioner.
Shri Rohan Chandurkar, Advocate for respondent No.1.
Shri N. S. Deshpande, DSGI for respondent No.2.
Ms Ashwini S. Athalye, Advocate for respondent No.3.

CORAM : NITIN W. SAMBRE AND MRS VRUSHALI V. JOSHI, JJ.

DATE : February 06, 2025

P. C.

1. Heard.

2. After the Letter of Intent (LOI) was issued to the petitioner on 10/03/2015 under Rajiv Gandhi LPG Vitrak (RGGLV) from open category, the requirement of the godown and showroom was communicated.

3. The no-objection certificate (NOC) from the Village Panchayat was required which was rejected vide impugned resolution dated 26/02/2018 and communication dated 12/03/2018. It appears that vide another communication dated 13/02/2020, the respondent Oil Company has communicated the petitioner that his failure to obtain necessary approval from the concerned department has resulted into withdrawing the LOI dated 10/03/2015 thereby disqualifying the

petitioner for proposed distributorship.

4. It appears that pursuant to the petitioner having moved before the other Authority in view of rejection of NOC by the respondent Village Panchayat on 10/03/2018, a report by the Block Development Officer, Panchayat Samiti Saoner speaks of incorrect factual matrix which is narrated in the impugned communication dated 12/03/2018 by the Village Panchayat.

5. The respondent-Village Panchayat has not controverted the claim which is put forth in communication dated 11/04/2018 issued by the Block Development Officer, Panchayat Samiti Saoner which was addressed to the Additional Collector, Nagpur. Another report by the revenue authority/Sub Divisional Officer, Saoner also supports the case of the petitioner.

6. We have gone thorough the report submitted by the Block Development Officer addressed to the Additional Collector dated 11/04/2018 supporting the case of the petitioner.

7. In this backdrop, the claim put forth by the respondent Village Panchayat for rejection of issuance of NOC cannot be said to be questionable in the eyes of law as such decision of the Village Panchayat is not only arbitrary but far away from the truth as has been reflected in

the communications issued by the Sub Divisional Officer so also the Block Development Officer referred above.

8. Apart from above, the counsel appearing for respondent Village Panchayat submits that the Secretary of the Village Panchayat is physically present in Court and he has instructions to state that the decision as shall be directed by this Court shall be complied with.

9. The aforesaid issue prompts us to conclude that the impugned decision of the Village Panchayat is suffered by not only arbitrariness but also reflects the colourable exercise of powers and that being so, the communication dated 12/03/2018 is hereby quashed and set aside.

10. Having regard to the aforesaid report of the Block Development Officer and the Sub Divisional Officer, Saoner, we deem it appropriate to direct the Village Panchayat to issue no-objection certificate in favour of the petitioner for establishment of godown within a period of one week from today.

11. This takes us to the further submission of the counsel for the petitioner viz. justifiability of the impugned decision dated 14/06/2019 of withdrawing the LOI in favour of the petitioner. We are required to be sensitive to the fact that the petitioner, from the pleadings, is able to demonstrate that he has taken all timely steps in the matter of

issuance of NOC and it is the arbitrary decision of the Village Panchayat of rejection of prayer for issuance of no-objection certificate has resulted into delay. For such procedural delay, the petitioner cannot be blamed, particularly when the petitioner has chosen to approach this Court immediately after rejection of prayer for issuance of no-objection certificate.

12. Apart from above, the petition remained pending for last six years. We are equally required to be sensitive to the maxim *actus curiae neminem gravabit* i.e. act of Court shall not prejudice anyone. Merely because the matter remained pending for six years, that by itself will not act as an embargo on the right of the petitioner to claim that the decision of the respondent Oil Company is said to be arbitrary.

13. That being so, we deem it appropriate to quash and set aside the decision of the Oil Company thereby withdrawing the LOI as reflected in the communication dated 13/02/2020.

14. There is one more reason that withdrawal of the LOI was during pendency of the petition and as such Oil Company was well aware of the fact that the petitioner has already approached before this Court seeking quashing of the decision of the Village Panchayat.

15. As a sequel of above, we permit the petitioner to submit the NOC which is issued by the Village Panchayat within a period of four weeks from today to the Oil Company. The Oil Company pursuant thereto on receipt of NOC if so required, may call for additional documents as per the prescribed guidelines within a reasonable period and take fresh decision in the matter of issuance of LOI in favour of the petitioner expeditiously.

16. The writ petition stands allowed in aforesaid terms. No order as to costs.

(Mrs Vrushali V. Joshi, J.)

(Nitin W. Sambre, J.)