
(2022) 12 BOM CK 0043
In the Bombay High Court
Case No : Writ Petition No. 5564 Of 2017

Dhananjay

APPELLANT

Vs

Indian Oil Corporation Limited And Others

RESPONDENT

Date of Decision : 06-12-2022

Acts Referred:

Citation : (2022) 12 BOM CK 0043

Hon'ble Judges : Mangesh S. Patil, J;Y. G. Khobragade, J

Bench : Division Bench

Advocate : Atul B. Gatne, A.P. Bhandari, S.P. Salgar, N.V. Gaware

Judgement

Y.G. Khobragade, J

1. Rule. The Rule is made returnable forthwith. With the consent of both the sides matter is heard finally at the stage of admission.

2. By this petition under Article 226 of the Constitution of India, the petitioner is challenging rejection of his application for allotment of LPG distributorship or respondent no.1-corporation for Ahmednagar City in pursuance to the advertisement dated 29.09.2013.

3. The rejection of the petitioners application is on the following grounds:

"1. You are not having own land for Godown & Showroom in the advertised location as on the last date of submission of application as per the policy & eligibility criterion.

2. You have not maintained minimum required funds of Rs.15 lakhs on the closing balance as on the last date of submission of application as per the policy & eligibility criterion."

4. Heard advocate Mr. Atul B. Gatne learned counsel for the petitioner, advocate Mr. A.P. Bhandari learned counsel for the respondent no.1 and advocate Mr. S.P. Salgar learned counsel for the respondent no.2.

5. Having regard to the submissions canvassed on behalf of both the sides, we have gone through the record. It is a matter of record that, on 29. 09.2013 the respondent no.1 invited candidatures for allotment of LPG distributorship for Ahmednagar City and prescribed eligibility criteria / guidelines. On 23.10.2013, the petitioner submitted his candidature by giving description of land for godown, showroom and availability of required fund. Thereafter, the petitioner was informed that he was found eligible from the open category and directed him to participate in draw system scheduled on 25. 02.2014. In draw the petitioner got selected. However, on 23.07.2014 the team of the respondent no.1 inspected land / showroom of the petitioner but it was found inadequate. Therefore the petitioner offered alternate land for godown but on 06.10.2014 the respondent no.1 turned down said offer of the petitioner on the ground that offered land and showroom and even requirement of liquid fund did not meet the required criteria and cancelled the candidature of the petitioner and forfeited deposit of Rs.50,000/-.

6. The learned counsel for the petitioner submitted that, though the petitioner fulfilled essential criteria for allotment of LPG distributorship including liquid fund and lands / showroom but the respondent no.1 has cancelled the candidature of the petitioner with ulterior motive, ignoring actual dimension. Therefore, impugned order is illegal, bad in law.

7. Per contra, advocate Mr. A.P. Bhandari learned counsel for the respondent no.1 submitted that guideline no.6 for allotment of LPG distributorship provides condition that the candidate must have minimum balance on the last day of submission of the application and specific dimension of land for godown for storage of LPG cylinders, so also, the specific size of showroom. Though in his application the petitioner described about availability of plot for godown and showroom, however, on inspection the officers of the respondent no.1 did not find that the petitioner was fulfilling the essential criteria and the plot which was offered by the petitioner did not appear that the petitioner is owner of the said plot, so also the required liquid fund were not found in account of the petitioner as the shares and mutual funds cannot be considered sufficient as per guideline 6.1 (vi). Therefore, the respondent no.1 rightly passed the impugned order for the grounds set out it does not warrant interference with the cancellation of the distributorship order.

8. It is a matter of record that, the guidelines for availability of land for godown and showroom as well as minimum fund of Rupees Fifteen Lakhs as the closing balance as on the last date of submission of application is the policy and eligibility criteria. Guidelines No. 6.1 (vi), (vii) and (viii) provide as under:

“(vi) Have minimum total amount of Rs. 15 lakhs for Urban Markets and Rs. 10 lakhs for Urban Rural & Rural Markets respectively as the closing balance on the last date for submission of application as specified in the advertisement or corrigendum (if any). This amount is to be arrived at by adding amount in Savings Bank accounts in Scheduled Bank / Post Office, free and un-encumbered

Fixed Deposits in Scheduled Banks, Post Office, Listed Companies / Government Organisation / Public Sector Undertaking of State and Central Government, Kisan Vikas Patra, NSC, Bonds, Shares of Listed Companies, Listed Mutual Funds, ULIP, PPF, Surrender Value of Life Insurance policies in the name of Applicant or family members of the 'Family Unit' of the Applicant as defined above. In case of locations reserved under 'SC/ST' category, minimum total amount of Rs, 5 lakhs for Urban Markets and Rs. 2.5 lakhs for Urban-Rural & Rural Markets respectively should be available as the closing balance on the last date for submission of application as specified in the advertisement or corrigendum (if any).

(vii) Should own as on the last date for submission of application as specified in the advertisement or corrigendum (if any) :

a plot of land of minimum dimensions 25 Metre x 30 Metre (within 15 km from municipal/town/village limits of the location offered in the same State) for construction of LPG Godown for storage of 8000 Kg of LPG in cylinders. The plot of land for construction of godown not meeting the minimum dimensions of 25 Metre x 30 Metre will not be considered.

Or

a ready LPG cylinder storage godown (within 15 km from municipal/town/village limits of the location offered in the same State) of 8000 Kg capacity.

In case there are any state specific requirements/norms applicable for construction of the LPG Godown, then the same will be applicable for the respective Regular Distributorship locations and revised minimum dimensions of plot of land will be required as specified in the Advertisement of that respective State.

The plot of land or ready LPG cylinder storage godown should be freely accessible through all weather motorable approach road (public road or private road connecting to the public road). In case of private road connecting to the public road, the same should belong to the applicant/member of Family Unit (as per the multiple dealership/distributorship norm of eligibility criteria) as per the ownership criteria defined 7 below. In case of ownership/co -ownership by family member(s) in respect of such private road, consent letter from respective family member(s) will be required.

The land should also be plain, in one contiguous plot, free from live overhead power transmission or telephone lines. Canals/Drainage/Nallahs should not be passing through the plot. The land for construction of LPG godown should also meet the norms of various statutory bodies such as PWD/Highway authorities/ Town and Country Planning Department etc.

In case an applicant has more than one suitable plot for construction of godown for storage of minimum 8000 Kg of LPG in cylinders or ready LPG cylinder storage godown as on the last date for submission of application as specified in the advertisement or corrigendum (if any), the details of the same can also be

provided in the application.

(viii) Own a suitable shop of minimum size 3 metre by 4.5 metre in dimension or a plot of land for construction of showroom of minimum size 3 metre by 4.5 metre as on the last date for submission of application as specified in the advertisement or corrigendum (if any) at the advertised location or locality mentioned in the advertisement. It should be easily accessible to general public through a suitable approach road.

In case an applicant has more than one shop of minimum size 3 metre by 4.5 metre in dimension or a plot of land for construction of showroom of minimum size 3 metre by 4.5 metre as on the last date for submission of application as specified in the advertisement or corrigendum (if any) at the advertised location or locality as specified in the advertisement, the details of the same can also be provided in the application.

Reference vii & viii above:

'Own' means having ownership title of the property or registered lease agreement for minimum 15 yrs in the name of applicant / family member (as defined in multiple distributorship norm of eligibility criteria) as on last date for submission of application as specified in the advertisement or corrigendum (if any). In case of ownership/co-ownership by family member(s) as given above, consent in the form of a Notarized Affidavit from the family member(s) will be required.

In case the land is jointly owned by the applicant / member of 'Family Unit' (as defined in multiple dealership / distributorship norm) with any other person(s) and the share of the land in the name of applicant / member of the 'Family Unit' meets the requirement of land including the dimensions required, then that land for godown/showroom will also qualify for eligibility as own land subject to submission of 'No Objection Certificate' in the form of an Notarized Affidavit from other owner(s)."

9. As per guideline 6.1 (vi) minimum amount of Rupees Fifteen Lakhs for urban markets and Rupees Ten Lakhs for urban-rural and rural markets respectively are required to be maintained as closing balance on the last date of submission of the application. As per guidelines 6.1 (vii) the applicant should have a plot of land of minimum dimensions of 25 M x 30 M (within 15 km within municipal limits) for construction of godown for storage of 8,000 kg of LPG cylinder and showroom having dimension. As per clause-viii a suitable shop having minimum size of 3 M x 4.5 M in dimension or a plot of land for construction of showroom of minimum size of 3 M x 4.5 M should be made available on the last date of the submission of the application. However, while submitting the application (Exhibit-C), the petitioner offered land at Mahadev Complex having dimension 3.20 M x 6.82 M (Khasra no.665) and shop no.5 at Indira Chambers having dimension 2.97 M x 8.76 M. The petitioner disclosed in his application about having balance amount of Rs.3,63,384.83/- in his saving account of Yes Bank and

Rs.14,834.19/- in savings account of Kotak Bank and Rs.10,999.74 in savings account of Merchant Bank i.e. total Rs.3,89,218.76/-. The petitioner disclosed his financial capacity in the mode of shares and mutual fund to the tune of Rs.19,42,584.20.

10. As per guideline 6.1(vi) minimum amount of Rs.15 lakhs for urban market and Rs.10 lakhs for urban and rural market is required as closing balance on the date of submission of application. Clause 6.1 (vi) further provides that said amount is to be arrived at by adding amount in Savings Bank Account, Post Office, free and un-encumbered Fixed Deposits in Scheduled Bank, Post Office, listed Companies / Government Organisation / Public Sector undertaking of State and Central Government; Kisan Vikas Patra, NSC, Bonds, Shares of listed companies etc. However, on perusal of application (Exhibit-C) it appears that the petitioner quoted liquid fund of Rs.19,42,584.20/- in forms of Shares and Mutual Funds and cash of Rs.3,89,218.76/- lying with different Savings Bank Accounts. The petitioner has disclosed that he possessed Shares and Mutual Funds as specified in guideline 6.1(vi). Therefore, apparently the petitioner did fulfill the criteria of liquid funds.

11. As per guidelines, the respondents officer inspected the land for godown and proposed showroom of LPG distributorship on 19.12.2013 and opined that the dimension mentioned under clause-10 of the application are not as per required dimensions for LPG showroom as prescribed under clause-6 (6.1 - viii) of the brochure, so also the petitioner has not marked either 'Yes' or 'No' under clause-13 of his application. In response to said letter dated 19. 12.2013 the petitioner submitted reply contending that he is having built up area in Mahadev Complex (665A) of 3.20 M x 6.82 M and in Indira Chamber (Shop No.5) 2.97 M x 8.76 M and prayed for consideration of said area of shops.

12. It further appears that initially while submitting the application the petitioner offered land gut no.212 having dimension 226 M x 25 M for godown and shop no.5 for showroom, however, on inspection both the sites did not fulfill the criteria. Further the petitioner offered land bearing survey no.264 ad-measuring 2 Acre having dimension 125 M x 400 M of his relative Shri Madhukar Deshmukh, however, on the day of submission of his candidature for LPG distributorship the petitioner was not having any registered lease deed in respect of survey no.264

13. To conclude, though the impugned order on the ground of financial capacity / fund is not sustainable, rejection of candidature on the ground of inability of the petitioner to provide land for godown and showroom cannot be assailed. No interference is called for at the hands of this Court. The petition deserves to be dismissed. Accordingly, we proceed to pass the following order:

ORDER:

I) The writ petition is dismissed. No order as to costs.

II) Rule discharged.