

(2025) 09 BOM CK 0329

In the Bombay High Court, Aurangabad Bench

Case No : Writ Petition No. 888 Of 2023

Pradnya Nitin Patil

APPELLANT

Vs

Bharat Petroleum Corporation Ltd

RESPONDENT

Date of Decision : 23-09-2025

Acts Referred:

Constitution of India, 1950 — Article 15(3)
Petroleum Rules, 2002 — Rule 144

Citation : (2025) 09 BOM CK 0329

Hon'ble Judges : Manish Pitale, J; Y. G. Khobragade, J

Bench : Division Bench

Advocate : Prashant R. Katneshwarkar, P.S. Kundalwadikar, A.R. Syed, A.P. Bhandari

Final Decision : Disposed Of

Judgement

Manish Pitale, J

1. Rule. Rule made returnable forthwith. With consent of learned counsel for the parties, heard finally at the stage of admission.

2. The petitioner is aggrieved by the action of the respondents, in abruptly withdrawing Letter Of Intent (LOI) issued in favour of the petitioner for establishing a Retail Dealer Outlet at Kaijgaon to Tarwade Kh on Both Sides, Dist. Jalgaon. It is the case of the petitioner that upon the LOI being issued in her favour, further steps were taken by the respondents for installation and operationalization of the said Retail Outlet Dealership (Petrol Pump) and when the said outlet was at the verge of being started, the LOI was withdrawn in an arbitrary manner. According to the petitioner, for no fault on her part, she has been penalized by the respondents.

3. The respondents issued an advertisement on 24.11.2018 for establishing Retail Dealer Outlets at various locations, including the aforesaid location at Kaijgaon to Tarwade Kh on Both Sides, Dist. Jalgaon. This particular proposed

outlet was included at Serial No. 425. The said advertisement issued by the respondents themselves classified the said Outlet as a Rural Retail Outlet.

4. The petitioner applied for allotment of the said outlet as she was complying with all the necessary requirements. The petitioner was found eligible and upon her application being processed, she was selected for allotment of the said Outlet. Spot inspection was conducted by the officers of the respondents and upon positive reports being submitted, the aforesaid LOI was issued on 22.02.2019, in favour of the petitioner. In pursuance thereof, the petitioner was directed to deposit necessary security deposit and she, accordingly, deposited an amount of Rs.3,60,000/-, as per the Demand Draft dated 26.02.2022. She also paid Rs.40,000/- through online process and, thereafter, paid a further amount of Rs.5,00,000/- towards non-refundable deposit as per Demand Draft dated 18.02.2022. Thus, payments made by the petitioner, are undisputed.

5. The petitioner obtained no-objection certificates from various departments, including the Public Works Department, Town Planning Department, the Gram Panchayat, as also the Maharashtra State Electricity Distribution Company Ltd. The Superintendent of Police, Jalgaon also submitted a verification report. The petitioner had already submitted a bank guarantee on 08.11.2019 with the Public Works Department. The District Magistrate of Jalgaon also issued No-Objection Certificate under Rule 144 of the relevant Petroleum Rules in favour of the petitioner.

6. Since all the formalities were completed, establishment of the Retail Outlet was undertaken and even a tank was sent for installation at the site of the Outlet (Petrol Pump) in March 2020. The respondents called upon the petitioner, to place an order for stock of petroleum products and in that context, she deposited a further amount of Rs.2,10,000/- in February, 2020. In fact, the tank was even partly installed, when the respondents sent a message to the petitioner that the said tank was required urgently at another location. Consequently, the partially installed tank was un-installed and taken away.

7. Since further positive action was not forthcoming from the respondents, the petitioner followed up the matter. But, for considerable period of time, there was no response from the respondents. In that light, the petitioner was constrained to issue a legal notice through Advocate on 28.11.2022 to the respondents. It is in this backdrop, when the respondents did not come forward to explain to the petitioner as to why the Retail Outlet was not being operationalized, she was constrained to file the instant writ petition.

8. Mr. Prashant R. Katneshwarkar, learned Senior Counsel appearing for the petitioner submitted that after the present writ petition was filed, from the affidavit in reply of the respondent no. 2, the reasons why the respondents did not operationalize the said Outlet, came to the fore. According to the respondents, although the said Outlet was classified as a Rural Retail Outlet, the land offered by the petitioner, was on a State highway and as per the relevant

rules and regulations, a Rural Retail Outlet cannot be established on a State highway.

9. It was vehemently submitted that the advertisement issued by the respondents themselves gave the exact location of the proposed Retail Outlet as Kaijgaon to Tarwade Kh on Both Sides, Dist. Jalgaon at Serial No. 425 in the said advertisement. It was not as if the petitioner misled the respondents, in offering the land on the said location, which did not satisfy the requirement of it being a Rural Retail Outlet. The officers of the respondents immediately inspected the land offered by the petitioner, cleared the same as being in terms of the advertisement, as a result of which, the LOI was issued. The Retail Outlet was fully established, but for the fact that the tank which was partially installed, was un-installed at the behest of the respondents and taken away. It was submitted that the conduct of the respondents, was wholly arbitrary and for their mistake, the petitioner ought not to suffer.

10. It was further submitted that the respondents are wholly unjustified in claiming that the petitioner misrepresented or suppressed facts from the respondents while obtaining the LOI. It was asserted that all the information provided by the petitioner was in tune with the requirements of the Retail Outlet at the subject location advertised by the respondents and this was even confirmed and verified by the inspection carried out by the officers of the respondents.

11. It was only when the reply affidavit was placed on record, it came to the light that the action was initiated by the respondents on the basis of a complaint submitted by a person concerned with another such Retail Outlet in the vicinity. It was further submitted that the respondents cannot be permitted to rely upon Clause 22 of the brochure for selection of dealers issued by the respondents. The said Clause pertains to false information, which cannot be invoked against the petitioner in the admitted position on facts. It was emphasized that the petitioner is a woman entrepreneur and she has suffered due to the arbitrary conduct of the respondents.

12. During the course of arguments, it was indicated on behalf of the respondents, that since the said Retail Outlet was shown as a Rural Retail Outlet, charges taken from the petitioner were less than those taken for regular Retail Outlets. In respect of the said issue, the learned Senior counsel for the petitioner took instructions from the petitioner and a statement was made that she is ready to deposit the additional charges and that, therefore, the petition may be allowed, so that the petitioner can start the said Retail Outlet allotted to her.

13. In support of the contentions raised in the petition, reliance was placed on judgments of Division Bench of this Court in *Suvarna Shrikrishna Deore Vs. Bharat Petroleum Corporation Ltd. And Ors.* (judgment and order dated 08.07.2022 passed by the Division Bench of this Court in Writ Petition No.1148 of 2022), *Manisha Atul Borse Vs. Hindustan Petroleum Corporation Ltd.* And another

(judgment and order dated 13.02.2019 passed by the Division Bench of this Court in Writ Petition No.7727 of 2018) and Yogesh Waman Gaikwad Vs. Indian Oil Corporation Ltd. (judgment and order dated 22.04.2025 passed by the Division Bench of this Court in Writ Petition No.2447 of 2025).

14. On the other hand, Mr. A.P. Bhandari, learned counsel appearing for the respondents submitted that the subject location of the Retail Outlet at Kaijgaon to Tarwade Kh on Both Sides, Dist. Jalgaon, is undisputably, on a State highway. No Rural Retail Outlet, can be on a State highway and, therefore, the contentions raised on behalf of the petitioner, may not be considered. Reliance was placed on Clause 1 of the Brochure for Selection of Dealers, which provided for guidelines to the respondents to allot such Retail Outlets. Reliance was also placed on Clause 22 of the said Brochure pertaining to false information, which, inter-alia provided that even when incorrect information was provided by the applicant, the application was liable to be rejected.

15. It was submitted that in such a situation, when the land offered by the petitioner for the said Retail Outlet, is admittedly located on a State highway, the Rural Retail Outlet could never be allotted and established, thereby indicating that respondents had no alternative but to withdraw the LOI issued in favour of the petitioner. It was submitted that the respondents had even offered to immediately refund the amount deposited by the petitioner and, therefore, she cannot raise any grievance against the respondents in the facts and circumstances of the present case. It was emphasized that Rural Retail Outlets are treated differently from Regular Retail Outlets and, therefore, the petitioner cannot insist upon restoration of the LOI, as the very basis of her application could be said to be on an incorrect premise.

16. Reliance was placed on Judgment and order dated 23.11.2021 in Writ Petition No.6254 of 2020 passed by the Division Bench of this Court in the case of Laxman s/o Gorakh Waghmare vs. The Union of India, to contend that in identical circumstances, this Court had dismissed the writ petition on the basis that such offer by the petitioner therein, did not satisfy the eligibility criterion. On this basis, it was submitted that the writ petition deserved to be dismissed.

17. We have considered the rival submissions.

18. We find that the respondents themselves had issued the advertisement inviting applications for establishment of Retail Outlets at various places. The advertisement issued by the respondents pertained to both Regular Retail Outlets and Rural Retail Outlets. At serial no. 425, in the advertisement, respondents had invited applications for establishment of a Rural Retail Outlet, even as per the respondents themselves, at Kaijgaon to Tarwade Kh on Both Sides, Dist. Jalgaon. Therefore, the advertisement itself recorded the said proposed Retail Outlet as a 'Rural Retail Outlet', with the location being specified in the advertisement.

19. It was on the basis of the said representation made by the respondents in the advertisement, that the petitioner offered the said land while applying for

allotment of such a Rural Retail Outlet, deposited all the necessary amounts, including non-refundable deposit of Rs.5,00,000/- along with her application. In fact, the petitioner, undisputably, deposited all the amounts demanded by the respondents for allotment of the said Retail Outlet. In the light of the fact that she was found eligible in all respects, the LOI was issued in her favour.

20. The LOI was issued only after the officers of the respondents conducted spot inspection of the spot offered by the petitioner and after being fully satisfied with the same. It is a matter of record that the petitioner, upon such LOI being issued in her favour, obtained No-Objection Certificates from all the concerned departments, including a certificate from the District Magistrate of Jalgaon under Rule 144 of the Petroleum Rules.

21. The infrastructure for establishing such a Rural Retail Outlet, was established by the petitioner at the site and even the tank for storing the petroleum products was partially installed at the site. In fact, the petitioner indisputably, deposited a further amount of Rs.2,10,000/- for placing order in respect of the petroleum products. Having reached such an advanced stage of establishing and operationalizing the Retail Outlet, the respondents arbitrarily took away the partially installed tank under the excuse that it was required at some other place. Thereafter, the respondents refused to even respond to the urgent representations made by the petitioner, who is a woman entrepreneur, for seeking information as to why the respondents were not going forward in the matter.

22. The petitioner was constrained to issue legal notice to the respondents on 28.11.2022 and eventually, she was constrained to file the present writ petition in the year 2023. We find that the conduct of the respondents is arbitrary, in the facts and circumstances of the present case.

23. A perusal of the reply affidavit filed on behalf of the respondents shows that the facts and circumstances were undisputed by the respondents. In fact, paragraph no. 3 of the affidavit in reply of respondent no. 2, reads as follows :-

"03. I say that, there is no dispute about the following facts.

i. Advertisement dated 25.11.2018 was published for various locations including location "At Sr. No.425, Kalgaon to Tarwade (Kh) on both sides, Dist. Jalgaon in Rural category.

ii. The location was advertised in Rural category.

iii. Selection process is governed by the Brochure for Selection of Dealers for Rural and Regular Retail Outlets dated 24.11.2018, hereinafter referred to as "Brochure".

iv. 'The General Conditions pertaining to advertisement' of the brochure provides that the company reserves the right to cancel/withdraw/amend the advertisement or extend the due date at its sole discretion without assigning

any reason.

v. The petitioner herein filed an application in response to the advertisement on 17.12.2018. The petitioner was single applicant in Group – 1 Category; hence she was selected.

vii. Letter of Intent dated 22.02.2019 (P-34) was issued in favour of the petitioner. Said Letter of Intent is subject to conditions inter alia that 'This letter is merely a letter of intent and is not to be construed as a 'firm offer' of dealership to you'."

24. Thus, the respondents have themselves conceded to the fact that their own advertisement categorized the location of the Retail Outlet in the rural category and specified the location at serial no. 425 as Kaijgaon to Tarwade Kh on Both Sides, Dist. Jalgaon. It is also admitted that the LOI was issued in favour of the petitioner. But, the respondents seem to be harping upon the fact that the LOI was liable to be cancelled or withdrawn as per the sole discretion of the respondent if any information was found to have been suppressed or stated incorrectly by the applicant / petitioner. In this regard, much emphasis was placed on Clause 22 of the aforesaid brochure which pertains to false information. The said Clause 22, reads as follows :-

" 22. FALSE INFORMATION

If any statement made in the application or in the documents enclosed therewith or subsequently submitted in pursuance of the application by the candidate at any stage is found to have been suppressed / misrepresented / incorrect or false, then the application is liable to be rejected without assigning any reason and in case the applicant has been appointed as a dealer, the dealership is liable to be terminated. In such cases the candidate / dealer shall have no claim whatsoever against the respective Oil Company."

25. The respondents have further stated in their affidavit in reply, that a complaint was received from a third person in March 2020 that the subject Retail Outlet was being illegally constructed on a State highway, while the advertisement was for Rural Retail Outlet and that such an Outlet cannot be located on a State highway as per the brochure. It is then stated that the respondents verified from the Public Works Department as regards the status of the road on which the said Retail Outlet was being established by the petitioner and it came to light that the said road was indeed a State highway. In this backdrop, it was emphasized on behalf of the respondents that since the LOI could be withdrawn unilaterally, if information provided by the applicant was found to be incorrect, no fault could be found with the action undertaken by the respondents.

26. We are of the opinion that in the facts and circumstances of the present case, no fault can be found with the petitioner and it cannot be alleged that she misrepresented or suppressed vital information or that she indulged in falsity or

that she gave incorrect information while pursuing her application for allotment of the Rural Retail Outlet, in pursuance of the said advertisement issued by the respondents.

27. We are of the opinion that in such circumstances, clause 22 of the brochure, cannot be invoked by the respondents. The location of the Retail Outlet was categorized by the respondents themselves in the advertisement as a Rural Retail Outlet and hence, there was no question of the petitioner having provided any incorrect information to the respondents while pursuing her application.

28. The land offered by the petitioner was inspected by the officers of the respondents and upon being fully satisfied that the petitioner satisfied the requirements as per the brochure and the advertisement issued by the respondents themselves, the LOI was issued in her favour. The Retail Outlet was established and when it was on the verge of being operationalized, the impugned actions were undertaken by the respondents. Nothing could be more arbitrary than the conduct of the respondents, in the facts and circumstances of the present case, particularly when they were dealing with a woman entrepreneur.

29. The respondents cannot be permitted to hide behind Clause 22 of the brochure or the undertaking incorporated in the application of the petitioner, that if any wrong information / misrepresentation / suppression of facts was found, she would be ineligible for the aforesaid Retail Outlet. It was entirely the misrepresentation of the respondents themselves that created a situation, where the petitioner having pursued her application in a fair and honest manner, is suffering and she is being deprived of her rightful due.

30. The respondents did not even respond to the repeated applications and misrepresentations made by the petitioner. She was not even aware that a complaint was lodged by a third party on the ground that the road on which subject Retail Outlet was established, was categorized as a State highway. The respondents did not even send reply to the legal notice issued on behalf of the petitioner and in the affidavit in reply filed in the present petition, the respondents, for the first time, came up with the ostensible reason for proceeding against the petitioner.

31. We find the conduct of the respondents to be highly arbitrary, for which the petitioner cannot be made to suffer.

32. In similar situation, this Court held in favour of the victim of such arbitrary conduct of oil companies. In the case of *Suvarna Shrikrishna Deore Vs. Bharat Petroleum Corporation Ltd. And Ors.* (supra), a Division Bench of this Court even referred to Article 15(3) of the Constitution of India which enables the State, to make special provision for woman and observed that instead of taking a decision that would advance the object of such a provision, the respondent - oil company, had acted in an arbitrary manner, resulting in the woman applicant being victimized. It was found that the respondent - oil company, had acted in an illegal, arbitrary and irrational manner, justifying interference in writ jurisdiction.

33. This Court, in similar circumstances concerning a woman entrepreneur, in the case of *Manisha Atul Borse Vs. Hindustan Petroleum Corporation Ltd.* And another (supra), also set aside the action of the respondents and granted relief to the petitioner. In the case of *Yogesh Waman Gaikwad Vs. Indian Oil Corporation Ltd.*, this Court allowed the writ petition in favour of the petitioner.

34. We find that the respondents, cannot be permitted to rely upon the order passed in case of *Laxman s/o Gorakh Waghmare vs. The Union of India* (supra), for the reason that the law pertaining to such arbitrary and irrational conduct of the respondents, particularly, in a case where the applicant is a woman entrepreneur, was not referred to and discussed while dismissing the writ petition.

35. The said case is also distinguishable on facts, as in the present case, the establishment of the Retail Outlet allotted to the petitioner in terms of the LOI, had reached the stage of completion where even the tank was partially installed and only commissioning and operationalization was to be done. The Officers of the respondents had physically visited the land offered by the petitioner, found it to be suitable and thereupon, the petitioner established the physical infrastructure after obtaining necessary No-Objection Certificates from all the departments. Even the District Magistrate of Jalgaon issued necessary certificate under Rule 144 of the Petroleum Rules. Having reached the final stage of establishment and operationalization of the Retail Outlet, the respondents cannot be permitted to turn around and arbitrarily refuse the logical and consequential relief to the petitioner.

36. The very fact that a Retail Outlet was proposed and advertised at the subject location, shows that such a Retail Outlet is indeed required at such a place. In fact, it was not seriously disputed on behalf of the respondents that such a Retail Outlet at the said location was found to be necessary and, hence, it was advertised.

37. But, the said Outlet being located on a State highway, cannot be denied and, therefore, we find that the petitioner may not be eligible for the facility of lower amounts charged for Rural Retail Outlet.

38. A proper appreciation of the Clauses of the brochure, would show that charges for a Regular Retail Outlet are more than the charges for Rural Retail Outlet. Since the petitioner herself has come forward and stated that she would be ready to pay the difference in the charges, we are inclined to allow this writ petition.

39. A woman entrepreneur has been made to run from pillar to post after the LOI was issued and she had almost fully established the Retail Outlet. In such circumstances, the petitioner deserves relief.

40. Learned counsel appearing for the respondents had taken specific instructions, as to the difference in the charges and the further amount that the petitioner would have to pay. It was stated that the difference in amount would

come to a further amount of security deposit of Rs.1,00,000/- + amount of Rs.10,00,000/- towards difference in non-refundable fees + amount of Rs.2,000/- towards the application fee. Thus, the petitioner will have to deposit a further amount of Rs.11,02,000/- in the facts and circumstances of the present case.

41. In view of the above, the writ petition is allowed.

42. The impugned letter dated 25.01.2023, is quashed and set aside.

43. The said LOI stands revived, allotting the said Retail Outlet at Kaijgaon to Tarwade Kh on Both Sides, Dist. Jalgaon, in favour of the petitioner, subject to the petitioner depositing the aforesaid difference amount of Rs.11,02,000/- with the respondents.

44. The petitioner shall deposit the said amount within six (6) weeks from the date of this order.

45. Upon the petitioner depositing the said amount, the respondents shall take all further and necessary action for establishing the said Retail Outlet in favour of the petitioner and ensuring the same is operationalized at the earliest.

46. Writ petition is disposed of in above terms.

47. Rule is made absolute accordingly.

48. Pending applications, if any, also stand disposed of.