



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR**

S.B. Civil Writ Petition No. 19964/2019

Chitranshi Goyal Daughter Of Shri Sunil Kumar Goyal, Aged
About 22 Years, Resident Of Near Rajmandir Dag, Jhalawar,
Rajasthan

-----Petitioner

Versus

1. Indian Oil Corporation Ltd. Through Head Of Divisional
Office, Indian Oil Corporation Ltd. W-83, Shastri Nagar,
Lohagal Road, Ajmer, Rajasthan- 305006

2. The General Manager, Indian Oil Corporation Limited, G-9
All Yavar Jung Marg, Bandra (East), Mumbai-
400051(Maharashthra)

-----Respondents

For Petitioner(s) : Mr. Anuroop Singhi, Adv.
Mr. Roshan Sharma, Adv.
Mr. Devansh Sharma, Adv.

For Respondent(s) : Ms. Suruchi Kasliwal, Adv. through
V.C.

HON'BLE MR. JUSTICE SAMEER JAIN

Judgment / Order

REPORTABLE

Reserved On 11/02/2022

Pronounced On 22 /02/2022

1. By way of present writ petition, petitioner has challenged action of the respondent-Indian Oil Corporation Limited (for short, 'IOCL') in conducting selection for retail outlet dealership and allotment of petrol pump at location within Khasra No.76, Nahargatti 31/1, Dug, District Jhalawar on account of violation of her fundamental rights enshrined under Article 14,19 and 21 of the Constitution of India making following prayers:-

"i. Issue an appropriate writ, order or directions in the nature thereof thereby to quash and set aside the letter/mail dated 13 march 2019 in declining the



candidature of the petitioner in Group 1 category (land) is illegal and bad in the eye of law.

ii. Issue an appropriate writ, order or directions thereby declaring the petitioner is entitled for and to be considered in Group 1 category (land) in pursuance to the advertisement Annexure-1.

iii. Issue such other writ, order or directions as may be deemed just and proper by this Hon'ble Court in facts & circumstances of case and in favour of humble petitioner.

iv. By an appropriate writ, order or directions, award cost of writ petition in favour of humble petitioner.

Any other order which this Hon'ble Court considers fit and proper in favour of the petitioner may kindly be granted."

2. The facts of the case are that on 14/12/2018, an advertisement was issued by the respondent-IOCL in daily newspaper "Rajasthan Patrika" for selection of dealers qua IOCL retail outlet at various locations. The respondent-IOCL also issued a brochure dated 24/11/2018 for selection of dealers for regular and rural retail outlets wherein the terms, conditions and guidelines were also incorporated. As per the advertisement, the last date for submitting application form was 12/01/2019 and the same could have been submitted through on-line mode which was to be withdrawn immediately after lapse of last date i.e. 12/01/2019

3. On 11/01/2019, sale deed of the land qua the allotment was presented in the office of Sub-Registrar, Dug, District Jhalawar for registration and after receiving the same, necessary e-challan and appropriate stamps duty was deposited, affidavits, prescribed forms were also deposited and the consideration was paid and possession was given by the seller to the petitioner on 11/01/2019 but the sale deed could not be registered on 11/01/2019 due to the server being down and due to there being public holidays on



12th, 13th and 14th January, 2019 ultimately, the sale deed could be registered on 15th January, 2019. As regards the application form, the petitioner had submitted the same on 12/01/2019 within time.

4. It is relevant to note that it has come on record that a certificate was also issued by the office of the Sub-Registrar, Dug certifying that the sale deed was presented for registration on 11/01/2019 but as the server was down on that day and thereafter 12th, 13th and 14th January, 2019 were public holidays, the matter could not be processed and the sale deed could be registered on 15/01/2019

5. On 14/01/2019, the respondent-IOCL vide e-mail declared the petitioner as a successful candidate.

6. It is also relevant to note that no documents were required to be submitted alongwith the application form.

7. The requirement made by the respondent-IOCL vide its letter dated 14/01/2019 for submission of documents including the land documents within a period of 10 days, was duly fulfilled and the entire documents as required were submitted in the office of the respondents on 21/01/2019.

8. Vide communication dated 13/03/2019 (Annexure-5), the respondent-IOCL declared application form of the petitioner as not proper under Group-1 and found candidature of the petitioner under the said category as ineligible but directed for consideration of the application of the petitioner under Group-3 as per guidelines.

9. The only reason for rejection of the candidature of the petitioner for Group-1 to the best knowledge of the petitioner was non-registration of the land documents on or before 12/01/2019.



10. The petitioner got a certificate from the office of Sub-Registrar, Dug on 19/03/2019 which specifies the factum of sale deed being presented for registration on 11/01/2019 and the reasoning for non-execution of the same on the said date on account of the server being down and thereafter there being public holidays and the same being registered on 15/01/2019.

11. On 20/03/2019, the petitioner submitted a representation to the respondents apprising the above facts and also that she became owner of the land on 11/01/2019 for allotment of outlet dealership under Group-1 category and had submitted the said fact in her application form as well as also filed documents with the respondents within required time of 10 days of the letter dated 14/01/2019 and therefore categorization of her entitlement under Group-3 is erroneous, illegal and unjustified.

12. Further, representations were also submitted by the petitioner but no heed was paid and no response qua the same was given. The petitioner, therefore, filed present writ petition on 11/11/2019 under Article 226 of the Constitution of India.

13. Learned counsel for the petitioner placed reliance upon Sections 23 and 47 of the Registration Act, 1908 and Section 54 of The Transfer of Property Act, 1882 which read as under:-

The Registration Act, 1908:

*"23. **Time for presenting documents.**—Subject to the provisions contained in sections 24, 25 and 26, no document other than a will shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution:*

Provided that a copy of a decree or order may be presented within four months from the day on which the decree or order was made, or, where it is appealable, within four months from the day on which it becomes final.



47. Time from which registered document operates.—A registered document shall operate from the time which it would have commenced to operate if no registration thereof had been required or made, and not from the time of its registration."

The Transfer of Property Act, 1882

"54. "Sale" defined.—"Sale" is a transfer of ownership in exchange for a price paid or promised or part-paid and part-promised.

Sale how made.—Such transfer, in the case of tangible immovable property of the value of one hundred rupees and upwards, or in the case of a reversion or other intangible thing, can be made only by a registered instrument. In the case of tangible immovable property of a value less than one hundred rupees, such transfer may be made either by a registered instrument or by delivery of the property. Delivery of tangible immovable property takes place when the seller places the buyer, or such person as he directs, in possession of the property.

Contract for sale.—A contract for the sale of immovable property is a contract that a sale of such property shall take place on terms settled between the parties.

It does not, of itself, create any interest in or charge on such property."

14. While placing reliance upon the said Sections of the Registration Act, learned counsel for the petitioner submitted that the registered document shall operate from the time when the same is commenced to operate or has been executed and not from the date of registration/issuance by the authority concerned. As per Section 23 of the Registration Act, a document of the nature of sale deed specifies time of four months from the date of its execution. Learned counsel further submitted that Section 74 of the Registration Act, 1908 permits enquiry to be performed by the competent authority under the Act. Learned counsel has also submitted that Section 54 of The Transfer of Property Act, 1882



defines sale as a transfer of ownership when consideration is paid qua the same.

15. In the light of above provisions, learned counsel for the petitioner relied upon judgment of the Apex Court rendered in ***Hamda Ammal Vs. Avadiappa Pathar & 3 Ors.: (1991) 1 SCC 715.***

16. Learned counsel for the petitioner further placed reliance upon Division Bench Judgment of Gujarat High Court passed in Letter Patent Appeal No.963/2015, decided on 23/11/2015, titled as ***Indian Oil Corporation Vs. Ranjitsinh Jitusinh Zala*** in the case of LPG distributorship in the similar kind of facts wherein after considering the provisions of Section 47 of the Registration Act, 1908, vide Para 8 and 9, it was held that the date of effect of sale deed will be its presentation and not issuance of registration in terms of Section 47 of the Registration Act, 1908 and the guidelines of the Oil Companies cannot override the Act of the Parliament. The said decision of the Division Bench was affirmed by the Apex Court in SLP No.5299/2016 by the Supreme Court vide order dated 01/04/2016 dismissing the SLP of the IOCL and therefore, the guidelines of the Oil Companies cannot override the law of parliament as well as the settled position of law.

17. Per-contra, learned counsel for the respondent-IOCL very vehemently submitted that Section 47 of the Registration Act, 1908 specifies that in cases where the registration is required compulsorily, the date of execution/presentation cannot be considered; the terms and conditions of the guidelines of the Oil Companies are binding upon them as well as the applicant and the same were specified in the document which has been duly accepted by the petitioner in Para No.4(v)(a). Learned counsel for



respondent-IOCL further submitted that it is an admitted case of the petitioner that his application was filed on 12/10/2019 and the documents were filed on 21/01/2019 after getting the document registered on 15/01/2019 and therefore, once the registration of the document was done on 15/01/2019, the case of the petitioner cannot be considered under Group-1 category as on 12/01/2019, the document in question qua the title of land was unregistered sale deed which is more than enough to debar the petitioner to from considering his case under Group-1 category. Further, the submissions of the documents was falsely made and is an act of misrepresentation, concealment and suppression and on this count alone, the candidature of the petitioner is falsified. Learned counsel for the respondent-IOCL further submitted that the judgments relied upon by the petitioner are not applicable in the facts of the present case as the sale deed was required to be compulsorily registered prior to filing of the application form in terms of Section 17 and 49 of the Registration Act, 1908.

18. On screening records of the writ petition, hearing the respective counsels and considering the judgments relied upon at bar, this Court is of the considered view that admittedly prior to last date of submission of application form, the sale deed was presented before the office of Sub-Registrar, Dug. The sale consideration and required stamp duty had been paid and the entry of the same had also been made in the records of the office of Sub-Registrar, Dug. The certificate dated 19/03/2019 issued by the office of the Sub-Registrar, Dug categorically discloses that the server was down on 11/01/2019 and there were public holidays on 12/01/2019, 13/01/2019 and 14/01/2019 and, therefore, the



process of final registration and issuance of the registered documents was carried out on 15/01/2019.

19. It is also an admitted case of the respondents that vide letter dated 14/01/2019 (Annexure-4) they have selected the petitioner on the basis of the application form provisionally and permitted the petitioner to submit documents within a time span of ten days

which has been complied with by the petitioner. The only ground for categorizing the application of the petitioner at later point of time under Group-3 category was that on the date of depositing the application form, the land document was not registered. In

this regard, the Apex Court in **Hamda Ammal (supra)** has categorically held in Paras 4 and 5 which are reproduced as

under:-

"4. Section 54 of the Act defines Sale as "a transfer of ownership in exchange for a price paid or promised or part-paid and part-promised." Thus after the execution of the sale deed with consideration all the ingredients of sale are fulfilled except that in case of tangible immovable property of the value of Rs. 100 and upwards it can be made only by registered instrument. Now, if we read Section 47 of the Registration Act, it clearly provides that a registered document shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made and not from the time of its registration. This provision makes it clear that after the registration it will relate back to the date of execution of the sale deed. The act of registration is to be performed by the registering authority. According to sec. 23 of the Registration Act a document of the nature of sale deed shall be accepted for registration within four months from the date of its execution. Thus a statutory period of four months has been provided for presenting the sale deed for registration from the date of its execution. In case of dispute regarding the execution of the document an enquiry is permitted under Section 74(a) of the Registration Act and that may also take sometime. The Legislature being alive of such



situations has already provided in Section 47 of the Registration Act that it shall operate from the time from which it would commence to operate if no registration thereof had been required or made and not from the time of its registration. Thus in our view the vendee gets rights which will be related back on registration from the date of the execution of the sale deed and such rights are protected under Order 38 Rule 10 C.P.C. read together with Section 47 of the Registration Act.

5. We cannot accept the contention of learned counsel for the respondent that till registration, the execution of the sale deed does not confer any rights whatsoever on the vendee. Even Section 49 of the Registration Act in its proviso inserted by Section 10 of the Transfer of Property Amendment) Supplementary Act, 1929, negatives the above contention of the learned counsel. The above provision lays down that an unregistered document affecting immovable property and required by this Act or by the Transfer of Property Act, 1882, to be registered may be received as evidence of a contract in a suit for specific performance under Chapter II of the Specific Relief Act, 1877, or as an evidence of part performance of a contract for the purposes of Section 53-A of the Transfer of Property Act, 1882, or as evidence of any collateral transaction not required to be affected by registered instrument. Thus even an unregistered document can be received as evidence for purposes mentioned in the proviso to Section 49 of the Registration Act."

20. As per Section 23 of the Registration Act, 1908, four months' time is provided for acceptance of registration qua the sale deed and as per Section 74 enquiry can be conducted. As per Section 47, it is specifically provided that a registration shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made, and not from the time of its registration.

21. The arguments advanced by learned counsel for the respondents are negated in view of the judgment of the Apex Court (supra) in as much as within time frame of four months, a



sale deed can be presented for registration. As per Section 23, after submitting the sale deed for registration with the registration office, the same can be considered for enquiry and as per Section 47, the act of registration is not bound to operate but it is a time from which it would have commenced to operate.

22. In the case in hand, it is an admitted position that on 11/01/2019, the sale deed commenced to operate, the petitioner's father has taken possession of the said land, paid consideration qua the same to the seller, deposited adequate stamp duty alongwith prescribed form in the office of Sub-Registrar, Dug and as the server of the office of Sub-Registrar, Dug was down on the date of presentation of sale deed for registration on 11/01/2019 and thereafter there were public holidays for three days, the sale deed was registered on 15/01/2019 and the same was submitted within the prescribed time of ten days as provided by the respondents.

23. Even otherwise, as per Sections 9 and 10 of the General Clauses Act, computation of time and manner of computation excludes the date of filing when there are public holidays.

24. The same situation was also considered by the Gujarat High Court in ***Indian Oil Corporation Vs. Ranjitsinh Jitusinh Zala (supra)*** in the case of the respondents only and vide Paras No.11 and 12, after considering the Apex Court judgment and Section 47 of the Registration Act, 1908, in the similar situation, the contention of the Oil Company (respondents) was turned down and the said view of the Gujarat High Court was affirmed by the Apex Court.

25. In the light of above, the prayers made by the petitioner in the present writ petition appear to be justified and the impugned



action of the respondents communicated by them to the petitioner vide their letter/email dt.13/03/2019 in not considering the case of the petitioner for retail outlet under Group-1 is held to be unjustified. The respondents are accordingly directed to consider the claim of the petitioner for allotment of retail outlet under the category of Group-1 and proceed further.

26. The writ petition is allowed in above terms. All pending application stand disposed of.

(SAMEER JAIN),J

