

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
R/SPECIAL CIVIL APPLICATION NO. 10262 of 2023

FOR APPROVAL AND SIGNATURE:

HONOURABLE MR. JUSTICE NIRZAR S. DESAI

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Approved for Reporting	Yes	No
	Yes	

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AKSHAYKUMAR GAMANBHAI PATEL

Versus

HINDUSTAN PETROLEUM CORPORATION LIMITED

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Appearance:

MR SALIL M THAKORE(5821) for the Petitioner(s) No. 1
 MR.MANAN BHATT(6535) for the Respondent(s) No. 1

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CORAM:HONOURABLE MR. JUSTICE NIRZAR S. DESAI

Date : 11/06/2026

ORAL JUDGMENT

1. Heard learned advocate Mr. Salil Thakore, appearing for the petitioner, and learned advocate Mr. Manan Bhatt, appearing for the respondent—Corporation.

2. With the consent of the learned advocates appearing for the respective parties, the matter

is heard finally. Hence, **RULE**. Learned advocate Mr. Manan Bhatt waives service of Rule on behalf of the respondents.

3. By way of the present petition, the petitioner has prayed for the following reliefs:-

"A) That the Hon'ble Court be pleased to issue a writ of or in the nature of mandamus or any other appropriate writ, order or direction commanding the respondent to take all steps necessary for allotting to the petitioner the proposed MS/HSD retail outlet dealership to be located at Village : Miyapur on Bardoli to Anawal road in District: Navsari and for the said purpose, command the respondent to provide the requisite map and forwarding letter to the petitioner and complete all other formalities / procedures as are necessary for enabling the petitioner to start the Retail Outlet Dealership;

B) That pending the hearing and final disposal of this petition, the Hon'ble Court be pleased to restrain the respondent from allotting an MS/HSD retail outlet dealership at Village : Miyapur on Bardoli to Anawal road in District : Navsari or nearby to any other person or entity;

C) For ad-interim relief in terms of prayer B;

D) For such other and further reliefs as the Hon'ble Court may deem just and proper in the facts and circumstances of the case."

4. The facts of the petition may be stated as under:

4.1 The present petitioner applied for the dealership of a MS/HSD retail outlet proposed to be located at Village Miyapur on the Bardoli-Anawal Road in District Navsari, pursuant to the advertisement published by the respondents in the local newspaper Gujarat Samachar on 25.11.2018. In short, the petitioner applied for a petrol pump dealership in response to the advertisement issued by the respondents on 25.11.2018.

4.2 The petitioner's application was processed, and at various stages the petitioner was called upon to complete certain formalities, including payment of a sum of Rs. 30,000/- towards the initial security deposit, and the petitioner's application reached the stage of issuance of Letter of Intent (LOI, for short) which was issued in favour of the petitioner on 17.02.2020.

4.3 Upon receipt of the said LOI, the

petitioner was required to fulfill certain formalities, which the petitioner duly complied with before the local authorities, and thereafter the petitioner was awaiting a communication to proceed to execute the dealership agreement. However, the said stage never arrived, and therefore, the petitioner issued a legal notice on 10.12.2021, which was not replied to. Being frustrated by the prolonged delay, the petitioner preferred the present petition in the year 2023 with the prayers stated in the foregoing paragraph.

4.4 In the reply, according to the respondents, the petitioner's land in Village Miyapur is situated in Surat District and, therefore, at the time of applying for No Objection Certificate from the District Administration, the respondent-Corporation noticed the aforesaid mismatch. Accordingly, as per the OMC dealer selection guidelines, the location cannot be changed to a new district, and hence the petitioner's application was required to be cancelled.

4.5 The second submission canvassed by learned advocate Mr. Bhatt was that merely because LOI was issued, the mere issuance of LOI in favour of the petitioner would not create any legal, vested, or accrued right in favour of the present petitioner. It was also stated by learned advocate Mr. Bhatt that the selection of dealers for retail outlet is governed by the retail policy document known as the guidelines for selection of dealers for regular retail outlets. As per the said guidelines, a dealership cannot be offered at a different location, and therefore the petitioner's application was cancelled.

4.6 Though the affidavit does not state anything about whether any other person has been issued the dealership or not, upon a specific query from the Court, learned advocate Mr. Manan Bhatt, upon instructions, submitted that due to a mistake in the publication of the advertisement, Village Miyapur, which is actually situated in Surat District, was considered to be a village of

Navsari District. No other person has been offered dealership for a petrol pump outlet in Village Miyapur pursuant to the advertisement which forms the basis of the present petition.

5. In view of the above factual backdrop, learned advocate Mr. Salil Thakore made the following submissions:

5.1 Despite filing of the affidavit in reply and stating that Village Miyapur is located in Surat District, which is a different district, the respondent—Corporation has not denied the fact that Village Miyapur is not situated in Navsari District. When the advertisement is specifically for Village Miyapur, it is the legitimate expectation of the present petitioner that, there being only one Village Miyapur in Surat and Navsari District, the petitioner's application for allotment of a retail petrol pump outlet for Village Miyapur would be considered, and the said legitimate expectation was strengthened when the LOI was issued in favour of the petitioner.

5.2 Therefore, in view of Article 14 of the Constitution of India, the respondents were expected to act fairly and stick to their advertisement, irrespective of the district, as the advertisement was in respect of Village Miyapur. Once the Letter of Intent is issued, which reflects the intention on the part of the respondents to allot the retail outlet for setting up a petrol pump, the respondents are expected to allot the retail outlet for a petrol pump at Village Miyapur pursuant to the advertisement in question.

5.3 Learned advocate Mr. Salil Thakore further submitted that the stage of LOI was reached not overnight but after a lengthy procedure adopted by the respondent—Corporation. The same required site verification and certain other formalities to be performed by the petitioner, both pre and post issuance of LOI.

5.4 Till the stage of issuance of LOI as well as thereafter, when the petitioner was required to

carry out certain formalities with the local administration, the petitioner was never informed about the fact that the Village Miyapur referred to in the advertisement was not in Navsari District.

5.5 Since the said Village Miyapur is not situated in Navsari District, there was no reason for the petitioner to believe that there may be any other Village named Miyapur. Therefore, the petitioner was legitimately expecting the respondents to allot the dealership of a petrol pump pursuant to the advertisement.

5.6 When the respondents did not act in accordance with the Letter of Intent for a period of three years and did not reply to the notice issued by the petitioner, the petitioner was compelled to file the present petition. According to learned advocate Mr. Salil Thakore, the said inaction on the part of the respondents in not allotting the petrol pump to the petitioner amounts to unfair treatment to the petitioner,

which in turn amounts to violation of Article 14 of the Constitution of India.

5.7 Learned advocate Mr. Salil Thakore relied upon a decision of the Hon'ble Supreme Court in the case of *Kumari Shrilekha Vidyarthi and Others v. State of U.P. and Others*, reported in (1991) 1 Supreme Court Cases 212, and by relying upon paragraph 20 of the said judgment, learned advocate Mr. Salil Thakore submitted that though in a different set of facts, in respect of the duty of the State, the Hon'ble Supreme Court has observed that *"Applicability of Article 14 to all executive actions of the State being settled and for the same reason its applicability at the threshold to the making of contract in exercise of the executive power being beyond dispute, can it be said that the State can thereafter cast off its personality and exercise unbridled power unfettered by the requirement of Article 14 in the sphere of contractual matters and claim to be governed therein only by private law principles applicable to private individuals whose rights*

flow only from the terms of the contract without anything more?" and therefore, considering the observations made by the Hon'ble Supreme Court in paragraph 20 of the said judgment, the present action on the part of the respondent—Corporation can be termed as unfair treatment, which is violative of Article 14 of the Constitution of India, and therefore, the State's action of non-allotment of the petrol pump cannot be endorsed, and the State is required to be directed to allot the dealership of the petrol pump pursuant to the advertisement in favour of the present petitioner.

5.8 Learned advocate Mr. Salil Thakore thereafter relied upon a decision of the Hon'ble Supreme Court in the case of *M/s Dwarkadas Marfatia and Sons v. Board of Trustees of the Port of Bombay*, reported in (1989) 3 Supreme Court Cases 293, and by relying upon paragraph 27 of the said judgment, submitted that if a governmental policy or action, even in contractual matters, fails to satisfy the test of reasonableness, it would be unconstitutional. By relying upon the

above two judgments, learned advocate Mr. Salil Thakore submitted that, as the State has failed to act reasonably in the instant case, the ratio of both these judgments would be fairly applicable to the facts of the present case.

5.9 Therefore, this Court may exercise its powers under Article 226 of the Constitution of India and direct the respondent—Corporation to issue an allotment letter to the present petitioner for dealership of the petrol pump.

Except the above submissions and the judgments relied upon by learned advocate Mr. Salil Thakore, no other submissions were made by him and no other judgments were cited.

6. Learned advocate Mr. Manan Bhatt, appearing for the respondent, mainly relied upon the affidavit-in-reply filed by the respondents and submitted that the Letter of Intent does not create any vested or accrued right in favour of the present petitioner. No letter of allotment was

issued by the respondent authorities upon noticing the mismatch of the location with the district, and the respondents can be alleged to have acted in an unfair manner only in case the application of any other person for the same location of Village Miyapur is considered by the respondent authorities.

6.1 In the instant case, the respondent authorities have not allotted the dealership of a retail outlet petrol pump to any other person for the location of Village Miyapur, and therefore there is no question of any unfair or unequal treatment to the present petitioner. The respondent—Corporation has acted in accordance with the policy for allotment of petrol pumps, which is known as the "Guidelines on Selection of Dealers for Regular Retail Outlets," and therefore the said action cannot be said to be unfair, unconstitutional, or violative of Article 14 of the Constitution of India.

6.2 He, therefore, prayed that the present

petition be dismissed.

7. I have heard the learned advocates for the parties and perused the record. Upon perusal of the record, I find that except for the issuance of the LOI and the fact that the petitioner had remitted a sum of Rs. 30,000/- towards security deposit in favour of the respondents, there is nothing to indicate that the respondent-Corporation has proceeded further pursuant to the LOI issued by it. Even the sum of Rs. 30,000/- which was remitted towards the security deposit was deposited prior to the issuance of the LOI, and the aforesaid facts could not be disputed by learned advocate Mr. Salil Thakore. Further, learned advocate Mr. Salil Thakore relied upon the decision in the case of **Kumari Shrilekha Vidyarthi (supra)**, but there the issue before the Hon'ble Supreme Court was entirely different. In that case, the appointment of all Government Counsels (Civil, Criminal, Revenue) in all the districts of the State of U.P. was terminated, and that action was under challenge, and therefore a right had

been created in favour of those Government Counsels, and the Court had considered the issue from that viewpoint.

8. In the instant case, no right has been created in favour of the petitioner, and therefore the aforesaid judgment, according to this Court, is not applicable to the facts of the present case.

9. As far as the decision in the case of *M/s Dwarkadas Marfatia and Sons (supra)*, which is relied upon by learned advocate Mr. Salil Thakore, is concerned, there also the issue before the Hon'ble Supreme Court was in respect of a lease dispute, which again can be said to be a dispute of contractual nature, and therefore rights in favour of the parties were created.

10. In the instant case, no contract has been executed between the present petitioner and the respondent—Corporation, and even the allotment letter has not been issued to the present petitioner, pursuant to which the petitioner could

have contended that once the allotment letter is issued, at least the respondent-Corporation would be directed to execute the contract. But in the instant case, even the allotment letter has not been issued, and therefore no right is created in favour of the present petitioner.

11. Further, merely because Village Miyapur is situated in Surat District and is not in Navsari District, and therefore the petitioner must be allotted the retail outlet for a petrol pump, the argument canvassed by learned advocate Mr. Salil Thakore cannot be accepted, simply for the reason that the respondent-Corporation has stated in its affidavit-in-reply that it has acted in accordance with the policy formulated for allotment of retail outlets for petrol pumps, and therefore, by acting in accordance with the policy, it has not allotted the petrol pump to the petitioner even after issuance of LOI.

12. Further, considering the fact that not only the petitioner but also no other person has been

allotted the dealership of a petrol pump for Village Miyapur, I do not find any reason to consider this to be a case of unfair treatment to the petitioner, as all the applicants have been treated equally by the respondent—Corporation. Hence, the submission regarding unfairness on the part of the respondent—Corporation and the contention that the petitioner has become a victim of unfair treatment is also required to be rejected, and is hereby rejected.

13. Resultantly, the present petition lacks merit and is required to be dismissed, and is hereby dismissed. Rule is discharged. No order as to costs.

(NIRZAR S. DESAI,J)

Pallavi