

## Pardeep Rattan Vs Indian Oil Corporation Limited and Others

**Court:** High Court Of Punjab And Haryana At Chandigarh

**Date of Decision:** April 1, 1997

**Acts Referred:** Constitution of India, 1950 Article 14, 16

**Citation:** (1998) 118 PLR 646 : (1997) 4 RCR(Civil) 30

**Hon'ble Judges:** T.H.B. Chalapathi, J

**Bench:** Single Bench

**Advocate:** K.L. Suneja, for the Appellant; S.C. Kapoor Ashish Kapoor, for Respondent Nos. 1 and 2, H.S. Riar and D.P.S. Kahlon, for the Respondent

**Final Decision:** Dismissed

### Judgement

T.H.B. Chalapathi, J.

Invoking the writ jurisdiction of this Court under Article 226 of the Constitution of India, the petitioner seeks a writ

of certiorari to quash the impugned letter of the respondents in granting retail outlet of the Indian Oil Corporation in favour of 3rd respondent.

2. The Indian Oil Corporation-respondent No.1 issued an advertisement on 20th December, 1993 calling for applications to appoint a dealer for

retail outlet of the Indian Oil Corporation at Ropar, Ludhiana and Patiala in the State of Punjab. In pursuance of the said advertisement, the

petitioner as well as the 3rd Respondent applied for the dealership of the retail outlet S.A.S. Nagar (Mohali) in District Ropar. Both the petitioner

as well as the 3rd respondent were called for interview and the 3rd respondent was granted dealership. Questioning the same, the petitioner

approached this Court by way of this writ petition.

3. The granting of dealership to the 3rd respondent was attacked by the petitioner on the ground that the 3rd respondent did not fulfil eligibility

criteria as he is not a bona fide resident of Ropar and he has, in a mala fide manner, got a one Kanal Kothi No. 690 Phase VI, SAS Nagar

(Mohali) on rent in December, 1993 and his family income is more than Rs. 50,000/- per annum and he is also one of the partners and Directors of

Piccadilly Sugar Mills, Patran and is also a Commission Agent of Samana Anaj Mandi which is functioning in the name and style of M/s Mann

Trading, Samana Mandi and he has also an agricultural farm at Jaur Majra, Tehsil Samana in district Patiala and the 3rd respondent has got annual

income of more than Rs. One lac and, therefore, he is not eligible to the dealership of the Indian Oil Corporation.

4. The 2nd respondent filed a written statement contending that there was no material on record to show that the 3rd respondent was not eligible

to get. dealership and as per information furnished by respondent No. 3 he was eligible and he was called for interview and the 2nd respondent

namely the Oil Selection Board found the 3rd respondent eligible for dealership and selected him.

5. The 3rd respondent filed a separate written statement contending inter alia that as the disputed questions of facts are involved, this Court will not

ordinarily exercise its writ jurisdiction in favour of the petitioner. He further stated that he has been residing at Mohali and his daughter was

admitted in the School at Mohali and his income is not more than Rs. 50,000/- and he has not drawn any income either from Piccadilly Sugar and

Allied Industries Limited, Pattran and Mann Trading, Samana Mandi. In fact in the returns filed with the Income Tax Authorities, losses were

shown by both the firms of which he was a partner. He further stated that he owns about 26 acres of land alongwith his brothers and out of the

said land, some trees were planted in 15 acres of land and they are not yielding any income and in the remaining 11 acres, he is getting a share in

income which is less than Rs. 50,000/ Therefore, he contended that he was eligible for getting the dealership and he was rightly chosen for the

grant of, dealership by respondents 1 and 2.

6. Annexure P-1 is a notice calling for applications for retail outlet dealership. One of the eligibility conditions is that the applicant should be a

resident of Ropar. According to the petitioner, the 3rd respondent is not a resident of Ropar. He filed a Voters list of 1993 as Annexure P-7 of the

writ petition. It shows that the 3rd respondent and his wife were registered as voters in Village Lutki Majra in Tehsil Samana, district Patiala. He

also filed the voters list of 1993 relating to S.A.S. Nagar (Mohali) in Tehsil Kharar, District Ropar as Annexure P-8 to the writ petition. According

to the same, in House No. 690, one Rajinder Singh and his wife Jaswant Kaur had been residing. According to the petitioner, the 3rd respondent

has given his address as House No. 690, at S.A.S. Nagar (Mohali) and the voters list of 1993 (Annexure P-8) falsifies the claim of the 3rd

respondent. Therefore, it cannot be said he is a resident of Mohali in Ropar District. Therefore, the 3rd respondent did not fulfil the eligibility

criteria.

7. On the other hand, the 3rd respondent filed a certificate issued by Vivek High School, Chandigarh which shows that the daughter of the 3rd

respondent is studying in Class VII and she has been residing at House No. 709, Phase VI, Mohali and the correspondence address is shown as

House No. 690 Phase VI, Mohali. He also filed a certificate issued by S.D.O. (C) Kharar vide Annexure R-3/3 to show that the 3rd respondent

is a permanent resident of House No. 690, Phase VI, Mohali and has been residing there for the last six years.

8. In the written statement, the 3rd respondent stated that he originally started living in SCF No. 34 Phase V, and thereafter he started living in the

house of his wife's cousin bearing No. 709 Phase VI, Mohali alongwith the uncle of his wife. He further stated that daughter of his wife's uncle

returned to India from abroad and therefore he shifted his residence to House No. 690, Phase VI, Mohali. He further averred that his parental

village is in Patiala Distt. Simply because the name of the 3rd respondent stands registered in the voters list of his native village it cannot be said that

the 3rd respondent has not been residing at Mohali. The voters list only shows that the 3rd respondent has been registered as voter in the particular

constituency, but it does not itself prove the fact that the 3rd respondent was not residing at Mohali. Though a person is residing at a different

place, he may choose to have his name registered at his native place so as to enable him to exercise his franchise at his native place. The voters list

got a little evidentiary value. It is, therefore, not possible to place reliance on the voters list alone to come to the conclusion that the 3rd respondent

has not been residing at Mohali (S.A.S. Nagar). The petitioner also alleged that the 3rd respondent has not an income of more than Rs. 50,000/-.

It is no doubt true that in the eligibility criteria prescribed the income of the family shall not exceed Rs. 50,000/- per annum. Though the petitioner

referred to income tax returns filed with Income Tax Authorities and Sales Tax No. of the 3rd respondent, the same have not been filed in Court.

Further the 3rd respondent has clearly stated in his written statement that his income is not more than Rs. 50,000/- and he has not drawn any

income from Piccadilly Sugar and Allied Industries Limited, Pattran and M/s Mann Trades, Samana Mandi and in the income tax returns of those

two firms, losses were shown. Further the questions raised in this writ petition are disputed questions of fact which cannot be decided in exercise

of the writ jurisdiction.

9. The 2nd respondent-Oil Selection Board found the 3rd respondent eligible for retail outlet dealership. As held by the Supreme Court in Dalpat

Abasaheb Solunke and Others Vs. Dr. B.S. Mahajan and Others, , it is not the function of the Court to hear appeals over the decision of the

Committees and to scrutinize the relative merits of the candidates. The decision of the Selection Committee can be interfered with only on limited

grounds, such as illegality or patent material irregularity in the constitution of the committee or its procedure vitiating the selection, or proved mala

fides affecting the selection.

10. It is pertinent to note that in this case no mala fides are attributed to the 2nd respondent-Board. The Petitioner is seeking quashing of the grant

of dealership in favour of the 3rd respondent on disputed questions of fact, Which cannot be gone into by this Court in writ jurisdiction.

The result is, the writ petition fails and it is, accordingly dismissed, but without any costs.