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v.

UNION OF INDIA & ORS.

(Civil Appeal NO. 1676 OF 2016)

FEBRUARY 23, 2016

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**[KURIAN JOSEPH AND ROHINDTON FALI
NARIMAN JJ.]**

Public Distribution – Allotment of outlet of petroleum/diesel dealership – Rejected on the ground that the age proof provided by the applicant was not of the Senior Secondary School as per the norms, but of Higher Secondary school – Propriety of – Held: Since the requirement of age proof is fulfilled, rejection of allotment is not justified – Respondent-Corporation is directed to conduct the selection afresh.

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Allowing the appeal, the Court

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HELD: 1. The requirement of the Corporation is only a proof regarding the age. No doubt, certain documents are specified in the Eligibility Criteria which would be accepted by the Corporation as proof of age. In case, a copy of the Secondary School Leaving Certificate can be accepted as proof of age, it does not even strike to common sense as to why the copy of the Higher Secondary School Leaving Certificate, duly attested, cannot be accepted as proof of age. The respondent-Corporation is directed to conduct the selection afresh, allowing the participation of the appellant as well along with those who have been considered as eligible by the Corporation. [Paras 7 and 9][1117-D-E; 1118-G]

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CIVIL APPELLATE JURISDICTION: Civil Appeal No. 1676 OF 2016

From the Judgment and Order dated 20.11.2012 in Writ Petition No. 9081 of 2012 passed by the High Court of Judicature at Bombay Bench at Aurangabad

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Nishant Ramakantrao Katneshwarkar for the Appellants.

S.M. Jadhav, Anshuman, (for M/s. S.M. Jadhav & Company), Priya Puri, Ranjay Kumar Dubey, Vikas Bansal, Chandra Bhushan

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A Prasad, Meenesh Kumar Dubey, Kaushal Yadav, B. Krishna Prasad for the Respondents.

The Judgment of the Court was delivered by

KURIAN, J. 1. Leave granted.

B 2. The short question which arises in this appeal is whether the second respondent-Corporation was justified in rejecting the application of the appellant for allotment of retail outlet of petroleum/diesel dealership at location Kalamnuri in District Hingoli in the State of Maharashtra, on the ground that the age proof submitted by her was not of the Secondary School as per the norms, but of a Higher Secondary School.

C 3. It is not in dispute that the appellant had submitted an attested copy of the School Leaving Certificate issued by Shri Shanti Vidya Mandir Higher Secondary School, Shiradshahpur, Hingoli, which is of a Higher Secondary School. That certificate was issued by the Principal of the school and the appellant had produced an attested copy of the same.

D 4. The High Court, in the impugned Judgment, held as under :-
"We find that though the approach of the Corporation seems to be technical, however, the petitioner could have submitted proof of age as required by the Corporation and in accordance with the clauses set out in the advertisement. It would not be proper to direct the Corporation to add/amend or alter the conditions of advertisement."

E 5. The application was rejected, as already noted, on the ground that the appellant had not complied with the requirement in terms of Clause 2(c) of Eligibility Criteria. Clause 2(c) reads as under :-

F *"(c) Age - As on date of Application (In completed years) : not less than 21 years. Enclose an attested copy of either Matriculation or Secondary School Leaving Certificate indicating date of birth or identity card issued by election commission or PAN card or Passport or an affidavit as proof of age."*

G 6. The learned counsel for the Corporation contends that the requirement being attested copy of Secondary School Leaving Certificate, the Corporation was justified in rejecting the application since what had been produced before them was an attested copy of the Higher Secondary School Leaving Certificate. It is also submitted that in all those cases where the applicants had not strictly complied with the requirement as per the Eligibility Criteria notified by the Corporation, the Corporation

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has rejected those applications. Whether the dispute pertained to the same issue as raised by the appellant herein is not clear. A

7. It is seen from the Eligibility Criteria, as extracted above, even an Affidavit was sufficient as proof of age. Be that as it may, in case, the copy of the Secondary School Leaving Certificate meets the requirement of the Eligibility Criteria, we fail to understand as to how does it make a difference in case the School Leaving Certificate is of the Higher Secondary School. The learned counsel for the Corporation was at pains to explain before us that the Secondary School Leaving Certificate is issued by the Board whereas the School Leaving Certificate of the Higher Secondary School is issued by the School. School Leaving Certificate, as the very expression indicates, is issued by the School since the pupil leaves the school. Annexure P1, which was produced by the appellant before the Corporation is captioned as "School Leave Certificate". The requirement of the Corporation is only a proof regarding the age. No doubt, certain documents are specified in the Eligibility Criteria which would be accepted by the Corporation as proof of age. In case, a copy of the Secondary School Leaving Certificate can be accepted as proof of age, it does not even strike to common sense as to why the copy of the Higher Secondary School Leaving Certificate, duly attested, cannot be accepted as proof of age. The High Court, however, is not correct in its approach. The clarification we have made does not in any way amend the criteria. B
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8. Mr. S. M. Jadhav, learned counsel appearing for Respondent No. 4, apart from supporting the arguments advanced by the learned counsel for the Corporation, also submits that during the pendency of the writ petition in the High Court, the 4th Respondent had already been allotted the outlet. Obviously, that will be subject to the selection to be conducted by the Corporation after allowing the participation of the appellant herein as well. F

9. Accordingly, we allow this appeal, set aside the Judgment passed by the High Court and direct the second respondent-Corporation to conduct the selection afresh, allowing the participation of the appellant herein as well along with those who have been considered as eligible by the Corporation. The needful shall be done within a period of two months from today. G

No costs.

Kalpana K. Tripathy

Appeal allowed.

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