

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 20TH DAY OF FEBRUARY 2015/1ST PHALGUNA, 1936

WP(C).No. 277 of 2014 (H)

PETITIONER(S):

**HASEENA P.,
W/O.UMMER E.K., ERAKKADAVATH HOUSE, MUZHANNAMANNA,
P.O. ANAMANGAD, MALAPPURAM DISTRICT - 679 357.**

**BY ADVS.SRI.K.R.AVINASH (KUNNATH)
SRI.ABDUL RAOOF PALLIPATH
SMT.GRACY POULOSE
SRI.T.SETHUMADHAVAN (SR.)**

RESPONDENT(S):

**THE INDIAN OIL CORPORATION LIMITED (IOCL),
INDANE AREA OFFICE AT IIND FLOOR, PMK TOWERS,
CIVIL STATION PO., WYNAD ROAD, KOZHIKODE - 673 020,
REPRESENTED BY ITS CHIEF AREA MANAGER**

**BY ADVS. SRI.M.GOPIKRISHNAN NAMBIAR
SRI.P.GOPINATH
SRI.P.BENNY THOMAS
SRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SRI.KURRYAN THOMAS**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
20-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1 : TRUE COPY OF THE BROCHURE FOR SELECTION OF RAJIV GANDHI
RURAL LPG DISTRIBUTORS.**

**EXHIBIT P2 : TRUE COPY OF THE LETTER OF INTENT ISSUED TO THE PETITIONER
DATED 03.10.2011.**

EXHIBIT P3 : TRUE COPY OF THE LIE AND NATURE OF THE PROPERTY.

**EXHIBIT P4 : TRUE COPY OF THE REQUEST MADE BY THE PETITIONER ON
28.10.2011.**

**EXHIBIT P5 : TRUE COPY OF THE JUDGMENT IN WP NO.1005/2012 DATED 13.01.2012
OF THIS HON'BLE COURT.**

EXHIBIT P6 : TRUE COPY OF THE REPLY DATED 13.08.2012 FROM THE RESPONDENT.

EXHIBIT P7 : TRUE COPY OF THE LICENCE FROM ALIPARAMBA PANCHAYAT.

**EXHIBIT P8 : TRUE COPY OF THE NO OBJECTION CERTIFICATE ISSUED BY FIRE AND
RESCUE SERVICES, DATED 26.09.2013.**

**EXHIBIT P9 : TRUE COPY OF THE EXPLOSIVE LICENCE ISSUED BY CONTROLLER OF
EXPLOSIVES, ERNAKULAM SUB CIRCLE, KOCHI DATED 01.12.2013.**

**EXHIBIT P10 : TRUE COPY OF THE NOTIFICATION ISSUED INVITING APPLICATION IN
NEWSPAPER FOR LIQUID PETROLEUM GAS DISTRIBUTOR.**

**EXHIBIT P11: TRUE COPY OF THE COMMUNICATION DATED 15.1.2014 FROM THE
RESPONDENT.**

**EXHIBIT P12: TRUE COPY OF THE VOUCHER DTD.7.11.2013 ISSUED BY THE
RESPONDENT.**

**EXHIBIT P13: TRUE COPY OF THE VOUCHER DTD.7.11.2013 ISSUED BY THE
RESPONDENT.**

**EXHIBIT P14: TRUE COPY OF THE CERTIFICATE DATED 20.11.2014 ISSUED BY
M/S VIJAYA BANK, PERINTHALMANNA BRANCH.**

**EXHIBIT P15: TRUE COPY OF THE PHOTOGRAPHS SHOWING THE COMPLETED
CONSTRUCTION OF THE GODOWN AND OFFICE FACILITY.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 277 of 2014

Dated this the 20th day of February, 2015

J U D G M E N T

Alleging that the respondent company refused to issue letter of intent approving the dealership of the petitioner, she has come up before this Court.

2. The petitioner applied for appointment as Rajiv Gandhi Rural LPG (Liquefied Petroleum Gas) Distributor under the respondent company. She was selected; and pursuant to selection, she was issued with letter of intent for appointment as LPG Distributor at Aliparamba in Malappuram District. One of the eligibility condition for appointment as LPG Distributor is to own suitable land of specified dimension at the location notified for storage of LPG cylinders. The petitioner alleges that while applying for distributorship, she has given the details of property owned by her in R.S.No.29/1 of Anamangad Village in Aliparamba area. Due to implementation of the Kerala

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Panchayat Building Rules, which came into effect on 14.02.2011, it became impossible for the petitioner to construct a godown building of specified dimension in the land mentioned in her application, which was submitted before 31.01.2011, the last date for submitting the application for distributorship. Therefore, the petitioner made a request to construct godown in an alternative site within the notified location complying with all requirements in the notification. The petitioner further alleges that she was allowed to construct godown in the alternative site located in Anamangad Village in Aliparamba Gramapanchayath. However, the respondent did not issue the letter of intent in approving dealership; and on enquiry, the petitioner was given to understand that it was because, she has constructed godown in Anamangad Village in Aliparamba panchayath and the notification was intended only for Aliparamba Village. This, according to the petitioner, is unreasonable and unsustainable. It is with this background, she has come

up before this Court.

3. A counter affidavit has been filed by the respondent company. According to them, the plot sought by the respondent corporation through the advertisement dated 30.12.2010 was at Aliparamba Village. They contend that due to implementation of the new building rules, construction was impossible in the land owned by the petitioner; and hence, as per Ext.P6, the petitioner was permitted to provide alternate land. According to them, though Aliparamba and Anamangad are within the local limits of the same panchayath, as the advertised location was Aliparamba Village and not Aliparamba Gramapanchayath, the petitioner cannot contend that her land is in Anamangad Village in Aliparamba Gramapanchayath, which would entitle her to be selected for the LPG distributorship. According to them, it is contrary to Ext.P10 advertisement, in which it is clearly laid down that the village notified is Aliparamba Village. Therefore, they justified their stand in not issuing letter

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of intent to the petitioner.

4. I have heard the learned senior counsel for the petitioner and the learned Standing Counsel for the respondent corporation.

5. The petitioner is not given the letter of intent on the ground that the present site owned by the petitioner is not in Aliparamba Panchayath. The respondent interprets the advertisement inviting application as in respect of the revenue village of Aliparamba and not as Aliparamba Gramapanchayath. Ext.P10 is the notification issued by the respondent inviting applications. On a perusal of Ext.P10, it can be seen that the notification does not say that the application was for the revenue village of Aliparamba. In fact, the petitioner applied for distributorship for Aliparamba Gramapanchayath as rightly submitted by the learned senior counsel for the petitioner. However, the petitioner, also while submitting application, shown her godown, as per Ext.P3, in Anamangad Village in

Aliparamba Gramapanchayath; and letter of intent was also given approving location as per Ext.P3. It is consequent upon implementation of the new Panchayat Rules, the petitioner sought to shift the location, which was allowed as per Ext.P6. Therefore, there is no basis in stating that the location of the godown in Anamangad Village in Aliparamba Gramapanchayath is opposite to the notification. Pending writ petition, the petitioner received a communication dated 15.01.2014 from the respondent stating that the letter of intent is withdrawn, which is produced as Ext.P11. The petitioner points out that Ext.P11 is unsustainable in law. The respondent, as per Ext.P2, approved the application by the petitioner with reference to location of godown in Anamangad Village in Aliparamba Gramapanchayath as shown in Ext.P3 sketch. Therefore, the respondent is estopped from rejecting the new location after approval of the same as per Exts.P2 and P6. It is also crucial to note that the petitioner, having acted upon the respondent's

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promise, expended more than ₹40,00,000/- for construction of the godown; and therefore, the respondent is estopped from rejecting the application of the petitioner.

In the result, the writ petition is allowed.

- It is hereby declared that the location of the petitioner's godown at Anamangad Village in Aliparamba Gramapanchayath is in conformity with Ext.P10 notification.
- Consequently, Ext.P11 is quashed.
- The respondent is directed to issue letter of intent after approving the location of petitioner's godown at Anamangad Village in Aliparamba Gramapanchayath within a period of two months from the date of receipt of a copy of this judgment.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-