

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

WP(C).NO. 966 OF 2014 (U)

PETITIONER:-:

**NISHA M., AGED 32 YEARS
D/O.LATE PADMANABHAN, RESIDING AT KARAYI HOUSE
KANJILERI P.O., MATTANNUR, KANNUR DISTRICT
PIN - 670 702.**

BY ADV. SRI.R.SURENDRAN

RESPONDENTS:-:

- 1. INDIAN OIL CORPORATION LTD.,
REPRESENTED BY THE MANAGING DIRECTOR,
INDIAN IL CORPORATION LTD., CORPORATE OFFICE, 3079/3,
J B TITO MARG, SADIQ NAGAR, NEW DELHI - 110 049.**
- 2. CHIEF AREA MANAGER,
INDIAN OIL CORPORATION, KOZHIKODE AREA OFFICE,
II FLOOR, P.M.K.TOWERS, WAYANAD ROAD,
CIVIL STATION P.O, KOZHIKODE - 673 020.**

**R1,R2 BY ADV.SRI.M.GOPIKRISHNAN NAMBIAR, SC FOR IOC
R1,R2 BY ADV.SRI.P.GOPINATH
R1,R2 BY ADV.SRI.P.BENNY THOMAS
R1,R2 BY ADV.SRI.K.JOHN MATHAI**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05-03-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).NO. 966 OF 2014 (U)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1. TRUE COPY OF ADVERTISEMENT/NOTIFICATION DATED 30.07.2011
PUBLISHED IN "THE HINDU" DAILY.**

**EXHIBIT P2. TRUE COPY OF DEGREE CERTIFICATE DATED 04.02.2003 ISSUED BY THE
CALICUT UNIVERSITY TO THE PETITIONER.**

**EXHIBIT P3. TRUE COPY OF ELIGIBILITY CERTIFICATE DATED 17.08.2011 ISSUED BY THE
TAHSILDAR, THALASSERY TO THE PETITIONER.**

**EXHIBIT P4. TRUE COPY OF LETTER DATED 18.02.2013 ISSUED BY THE SECOND
RESPONDENT TO THE PETITIONER.**

**EXHIBIT P5. TRUE COPY OF REPLY DATED 30.03.2013 SENT BY THE PETITIONER ON
04.04.2013 TO THE SECOND RESPONDENT.**

EXHIBIT P6. TRUE COPY OF PLAN ISSUED BY THE VILLAGE OFFICER, MELMURI.

**EXHIBIT P7. TRUE COPY OF LETTER DATED 05.10.2013 SENT BY THE PETITIONER TO THE
SECOND RESPONDENT.**

**EXHIBIT P8. TRUE COPY OF LETTER DATED 13.11.2013 ISSUED BY THE SECOND
RESPONDENT TO THE PETITIONER.**

**EXHIBIT P9. TRUE COPY OF LETTER DATED 23.11.2013 SENT BY THE PETITIONER TO THE
SECOND RESPONDENT.**

RESPONDENT(S)' EXHIBITS : NIL

OKB

//TRUE COPY//

PA. TO JUDGE

K.HARILAL, J.

W.P(C). No.966 of 2014

Dated this the 5th day of March, 2015.

JUDGMENT

The petitioner is an applicant for LPG distributorship at Mongam in Malappuram District. The 2nd respondent considered the application of the petitioner and she was the only eligible person for the award of distributorship. But, her candidature was not found to be satisfactory and the letter of indent was not given to the petitioner alleging that the width of the approach road is only 5m to 6m and does not satisfy the minimum requirement of 7 metres width. But the petitioner got the approach road measured by the Village Officer concerned, on his application for the same. The Village Officer certified that the width of the road is 7.5 m and the plan prepared by the Village Officer is also produced as Ext.P6. Aggrieved by the rejection of her candidature, though the petitioner had sent Ext.P5 and Ext.P7 letters to the 2nd respondent, the averments made therein were not considered in its correct perspective and got rejected by Ext.P8 letter, wherein also the respondents maintained the earlier stand that the width of

the approach road to the plot was found to be only 5m to 6m, which does not meet the policy requirement of 7m at the time of field verification. This is the grievance projected in this writ petition.

2. The respondents filed a counter affidavit and contended that pursuant to Ext.P9 letter of the petitioner the respondent got the road width re-verified and found that the width of the carriageway is only 4.5m to 6m, whereas the total road width is considered at 7m.

3. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

4. The short question to be considered is whether the rejection of the petitioner's candidature is justifiable in view of the averments in the counter affidavit filed by the 2nd respondent. Going by the pleadings in the writ petition, it could be seen that the sole ground for rejecting the candidature of the petitioner is that the road width found to be only 5m to 6m which does not meet the requirement of 7m. But after the rejection of the candidature the petitioner got re-verified the width of the road by the competent authority and the authority after measuring the road width certified that the road is having 7.5m width. In the counter affidavit also the respondents admitted that though the

road is having a width of 7m, the carriageway is only 4.5m to 6m. I am of the opinion that the rejection of the petitioner's candidature cannot be accepted in view of the admission in the counter affidavit that the road is having a total width of 7m, though the carriageway is only 4.5m to 6m. There is no rule restricting that the vehicle can be driven only through the carriageway, when the road is having more width than the carriage way. If the road is having a width of 7m, the vehicle can be driven using the entire width of the road. I find no reason to reject Ext.P6 plan, which shows a width of 7.5m, prepared by the Village Officer. The rejection of Ext.P6 plan is unreasonable. So also the reasons stated for rejection of the petitioner's application in Exts.P4 and P8 are unreasonable, arbitrary and illegal. In this analysis, Exts.P4 and P8 are quashed. The petitioner's claim cannot be rejected on this ground. The respondents are further directed to reconsider the petitioner's selection, in view of this judgment, within a period of two months from today.

This writ petition is disposed of as above.

Sd/—
(K.HARILAL, JUDGE)

okb.