

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

WEDNESDAY, THE 4TH DAY OF FEBRUARY 2015/15TH MAGHA, 1936

WP(C).No. 1474 of 2015 (H)

PETITIONER:

**BINU K.R., AGED 30 YEARS,
S/O RAVEENDRAN, KUTTOOR HOUSE,
KATTAPPANA P.O., NADUVANNUR (VIA),
UDUMBANCHOLA TALUK,
IDUKKI DISTRICT, PIN:685 508.**

**BY ADVS.SRI.P.S.SREEDHARAN PILLAI
SRI.T.K.SANDEEP
SRI.ARJUN SREEDHAR
SRI.ARUN KRISHNA DHAN
SRI.JOSEPH GEORGE(MULLAKKARIYIL)**

RESPONDENT(S):

- 1. INDIAN OIL CORPORATION LTD.,
REP. BY GENERAL MANAGER,
KERALA STATE OFFICE PANAMPALLY AVENUE,
PANAMPALLY NAGAR, KOCHI-682036.**
- 2. THE CHIEF AREA MANAGER,
INDIAN OIL CORPORATION, PANAMPILLY AVENUE,
PANAMPILLY NAGAR, KOCHI-682036.**

**BY SRI.P.GOPAKUMARAN NAIR(SENIOR ADVOCATE)
BY SRI.C.S.DIAS, SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 04-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1: A TRUE COPY OF THE RELEVANT PAGE OF THE BROCHURE ISSUED BY THE RESPONDENT CORPORATION IN AUGUST, 2013.**
- EXHIBIT P2: A TRUE COOPY OF THE APPLICATION DATED 24.10.2013 SUBMITTED BY THE PETITIONER.**
- EXHIBIT P3: A TRUE COPY OF THE LETTER NO.CAO/100/003 DATED 25.6.2014 ISSUED BY 2ND RESPONDENT.**
- EXHIBIT P4: A TRUE COPY OF THE LETTER DATED 10.10.2014 ISSUED BY 2ND RESPONDENT.**
- EXHIBIT P5: A TRUE COPY OF THE REPRESENTATION DATED 20.11.2014 SUBMITTED BY THE PETITIONER.**

RESPONDENT(S)' EXHIBITS:

- EXT.R1(1) : COPY OF THE ADVERTISEMENT PUBLISHED IN THE HINDU DAILY.**
- EXT.R1(2) : COPY OF THE LETTER SENT BY THE PETITIONER TO THE 2ND RESPONDENT.**
- EXT.R1(3) : COPY OF THE FIELD VERIFICATION CREDENTIAL REPORT REGARDING THE PETITIONER SUBMITTED BY THE SALES OFFICER OF THE RESPONDENTS.**
- EXT.R1(4) : COPY OF THE LETTER NO.CAO/100/003 SENT BY THE 2ND RESPONDENT TO THE PETITIONER.**
- EXT.R1(5) : COPY OF THE ADVERTISEMENT PUBLISHED IN THE MALAYALA MANORAMA DAILY.**

/TRUE COPY/

P.A. TO JUDGE

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P.R. RAMACHANDRA MENON, J.

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W.P.(C). No. 1474 of 2015

Dated this the 4th day of February, 2015

JUDGMENT

The petitioner is challenging the correctness and sustainability of Ext.P4, whereby the candidature of the petitioner to run the distributorship to be awarded by the respondent Company stands cancelled, for not satisfying the requirement as per the notification.

2. The case of the petitioner is that, pursuant to the notification issued by the respondent Company, particularly Ext.P1 brochure issued in August, 2013 collected from the website of the Company, the petitioner submitted Ext.P2 application on 24.10.2013, which was on the eve of the last day for submitting the application. After considering the credentials, the petitioner was served with Ext.P3 issued by the 2nd respondent on 25.06.2014 to the effect that the petitioner was provisionally selected and the petitioner was instructed to satisfy a sum of ₹25,000/- so as to cause field verification. The said amount was satisfied, pursuant to which, field verification was

conducted. It was thereafter that the petitioner was served with Ext.P4 dated 10.10.2014, whereby the candidature was cancelled stating that, the plot offered by the petitioner for constructing the go-down did not satisfy the dimension of 31X36 Mtrs. and further that, the fresh offer submitted by the petitioner as to the alternative arrangements made was not a qualification which the petitioner was possessing as on the last date of submitting the application and hence not acceptable. The amount satisfied by the petitioner came to be forfeited as per Ext.P4 and this made the petitioner to approach this Court by filing the writ petition, as Ext.P5 representation preferred in this regard did not turn to be fruitful.

3. A detailed counter affidavit has been filed by the respondents disputing the facts and figures. Copies of the relevant documents have been produced as R1(1) to R1(5).

4. Heard both the sides in detail.

5. The learned counsel appearing for the petitioner points out that the petitioner actually had responded to Ext.P1, where the measurement of the property concerned for construction of the go-down is given as 25X30 Mtrs(Clause 6 1(vii)). It is also stated

that Ext.P1 published in the website was never corrected at any point of time. It is however conceded that there was a subsequent correction/modification of the above requirement by issuance of a 'paper publication', which unfortunately did not come to the notice of the petitioner. It was on coming across the modified requirement, that the petitioner offered a plot of adequate dimension by procuring the requisite extent from the concerned landlord and copies of the relevant documents have also been produced before the respondent. The refusal on the part of the respondent Company in considering the same is liable to be intercepted by this Court, submits the learned counsel.

6. The learned Standing Counsel appearing for the respondent Company points out that, the idea and understanding of the petitioner is thoroughly wrong and misconceived. It is stated that Ext.P1 is only a 'brochure', which is applicable throughout India, specifying the general requirement and that, it is not at all an advertisement or an invitation to treat. It is stated that in Ext.P1 itself, particularly under Clause 6(1)(vii) cited by the petitioner, it is separately mentioned that the requirements may vary, depending upon the laws prevailing in

the State and that the same will be separately mentioned in the concerned advertisement to be issued in the respective State, which will prevail and supersede the prescriptions in Ext.P1. The said portion reads as follows:

"In case there are any state specific requirements/norms applicable for construction of the LPG Godown, then the same will be applicable for the respective Regular Distributorship locations and revised minimum dimensions of plot of land will be required as specified in the advertisement of that respective State."

7. The learned standing counsel also points out that, in conformity with the said requirement and also in the light of the relevant norms prescribed by the State of Kerala, Ext.R1(1) notification was issued on 25.09.2013, published in the 'Hindu' Daily; wherein the requirement of the go-down was specifically mentioned as '31X36' Mtrs. It was also mentioned that the dimension as above was to meet the State requirement and that the same will supersede the land requirement mentioned in the brochure and application in the website. The relevant portion, particularly under Clause 3 of Ext.R1(1) reads as follows:

**"3. BASIC FACILITIES REQUIRED FOR OPERATION
OF LPG DISTRIBUTORSHIP**

a. Godown for storage of LPG in Cylinders

LPG Distributor would require a Storage Godown duly approved and licensed by Chief Controller of Explosives of Petroleum and Explosives Safety Organization (PESO) for storage of 8000 kg LPG in cylinders.

The applicant should own:

A plot of land of minimum dimensions 31Mx36M (within 15 km from municipal/town/village limits of the location offered in the same State) for construction of LPG Godown for storage of 8000 kg of LPG in cylinders. The plot of land for construction of godown not meet the minimum dimensions of 31Mx36M will no be considered.
Or

a ready LPG cylinder storage godown (within 15 km from municipal/town/village limits of the location offered in the same State) of 8000 kg capacity.

*** "Dimension of land for LPG Godown mentioned in Advertisement is as per Kerala Govt Requirement and supersedes the land Requirement mentioned in Brochure & Application in websites."

8. It is brought to the notice of this Court that, similar advertisement was issued in the vernacular as well, as borne by Ext.R1(5), which is a publication effected in the 'Malayala Manorama' Daily dated 25.09.2013. The learned Standing Counsel further places reliance on the submission made by the petitioner, which is produced as R1(2) and R1(3), wherein the petitioner proclaimed that he was having the land of requisite size/measurement of '31X36 Mtrs' and that the particulars of the

advertisement with date, have been given with reference to 'Malayala Manorama' daily dated 25.09.2013. This being the position, the petitioner cannot be heard to say that he was not aware of the advertisement or that the petitioner was misguided because of the contents of the 'brochure' published on the website vide Ext.P1. It is also stated that, based on the submission made by the petitioner on 07.02.2014 as to the satisfaction of the requirement, field visit was conducted on 01.09.2014; when it was revealed that the petitioner did not have the adequate space of '31X36 Mtrs' to set up the go-down and it was accordingly, that the provisional selection was cancelled as per Ext.P4.

After hearing both the sides, this Court finds that there is no merit or bonafides so as to call for interference and hence the writ petition stands dismissed accordingly.

**P.R. RAMACHANDRA MENON,
JUDGE.**