

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

MONDAY, THE 1ST DAY OF JUNE 2015/11TH JYAISHTA, 1937

WP(C).No. 4452 of 2015 (F)

PETITIONER :

**RAMIYA BANU, AGED 25 YEARS,
W/O. ANWAR SADHIQUE, CHERACHAM KANDIYIL HOUSE,
UNNIKULAM VILLAGE, KOZHIKODE - 673 574.**

BY ADV. SRI.NIRMAL. S

RESPONDENT(S):

- 1. INDIAN OIL CORPORATION LTD.,
REP. BY MANAGER (LPG SALES), TRICHUR AREA,
INDANE AREA OFFICE, IIND FLOOR, P.M.K.TOWERS,
NEAR CIVIL STATION, KOZHIKODE - 673 020.**
- 2. INDIAN OIL CORPORATION LTD.,
REP. BY ITS GENERAL MANAGER (KERALA),
PANAMPILLY NAGAR, PANAMPILLY AVENUE,
COCHIN - 682 036.**
- 3. INDIAN OIL CORPORATION LTD.,
REP. BY ITS EXECUTIVE DIRECTOR,
REGISTERED OFFICE, INDIAN OIL BHAVAN, G-9,
ALI YAVAR JUNG MARG, BANDRA EAST, MUMBAI - 400 051.**
- 4. SUBIN VARGHESE,
S/O.C.M. VARGHESE, CHAKKALAYIL HOUSE,
KANNOTH P.O. KODENCHERY, KOZHIKODE- 673 580.**

**R1 TO R3 BY ADVS. SRI.M.GOPIKRISHNAN NAMBIAR
SRI.P.GOPINATH
SRI.K.JOHN MATHAI
SRI.P.BENNY THOMAS
SRI.JOSON MANAVALAN
SRI.KURYAN THOMAS**

**R4 BY ADVS. SRI.B.ASHOK SHENOY
SRI.K.V.GEORGE
SRI.P.N.RAJAGOPALAN NAIR
SRI.P.S.GIREESH**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 01-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT-P1- TRUE COPY OF THE NOTICE OF APPOINTMENT OF LPG DISTRIBUTORS DATED 25/09/2013.
- EXHIBIT-P2- TRUE COPY OF THE LETTER DATED 21/11/2013 ALLOTING APPLICATION SERIAL NUMBER
- EXHIBIT-P3- TRUE COPY OF THE FINAL LIST OF APPLICANTS FOR LPG DISTRIBUTION-SHIP FOR POONOR LOCATION DATED 08/04/2014.
- EXHIBIT-P4- TRUE COPY OF THE LETTER DATED 09/05/2014 FOR ATTENDING THE DRAW.
- EXHIBIT-P5- TRUE COPY OF THE COMPLANT DATED 28/06/2014.
- EXHIBIT-P7- TRUE COPY OF THE GUIDELINES FOR SELECTION LPG DISTRIBUTION FOR THE YEAR 2013.
- EXHIBIT-P8- TRUE COPY OF THE REGISTERED LEASE AGREEMENT FOR GODOWN DATED 17/10/2013.
- EXHIBIT-P9- TRUE COPY OF THE REGISTERED LEASE AGREEMENT FOR SHOW ROOM DATED 19/10/2013.
- EXHIBIT-P10- TRUE COPY OF THE LEASE DEED FOR THE SHOWROOM DATED 22/10/2013 OF THE 4TH RESPONDENT.
- EXHIBIT-P11- TRUE COPY OF THE LETTER OF INTEND ISSUED BY THE CHIEF AREA MANAGER, THE 1ST RESPONDENT DATED 18/09/2014
- EXHIBIT-P12- TRUE COPY OF THE PHOTOGRAPHS SHOWING THE STAIRCASE LEADING TO THE 4TH RESPONDENT'S SHOWROOM.

RESPONDENT(S)' EXHIBITS AND ANNEXURES:

- ANNEX R1(A) COPY OF THE COMPLANT DATED 2/7/2014 SENT BY THE PETITIONER TO THE MANAGER, INDANE AREA OFFICE, IOC LTD., KOZHIKODE
- ANNEX R1(B) COPY OF THE LETTER OF INTENT DATED 18/9/2014 ISSUED TO THE 4TH RESPONDENT BY IOC LTD.

/TRUE COPY/

P.A.TO JUDGE

K. VINOD CHANDRAN, J.

W.P.(C) No. 4452 of 2015

Dated this the 1st day of June, 2015

J U D G M E N T

The petitioner challenges the grant of LPG distributorship to the 4th respondent, at Poonoor in Kozhikode. A notification was published for the grant of distributorship of LPG cylinders. The petitioner and the 4th respondent were admittedly applicants under Ext.P1. The petitioner and the 4th respondent were listed out as eligible applicants to be participated in a draw for selection, as has been indicated in Ext.P7 guidelines along with others.

2. The 4th respondent having come out successful in the draw was issued the 'Letter of Intent' dated 18.09.2014. The petitioner has filed the above Writ Petition on 19.3.2015 contending that the proceedings of draw were not transparent and that the list of successful candidates was not displayed; as also contesting the eligibility of the 4th respondent.

3. On the question of eligibility, the contention of the learned counsel is that as per the guidelines, the showroom had to be provided on the ground floor of a building as is evident from Clause 6.1.(viii) in Ext.P7. Further, though such a specific pleading is not available in the writ petition, the learned counsel for the petitioner also alleges that the 4th respondent, whose lease agreement is produced at Ext.P10, as per the schedule, does not indicate the exact area of the room in which the show room is to be carried on. The petitioner would also contend that she having filed a complaint the same should have been considered under Clause 13 of Ext.P7. The delay, if any, caused in approaching this Court was only since the petitioner awaited consideration of her complaint.

4. At the outset it is to be noticed that Clause 6.1.(viii) relied on by the petitioner, contending that the showroom should be on the ground floor, does not on a reading of the same indicate such a condition. The specific

clause relied on is extracted hereunder:

“(viii) Own a suitable shop, of minimum size 3 meters by 4.5 metre in dimension or a plot of land of construction of showroom of minimum size 3 meters by 4.5 meter as on the last date for submission of application as specified in the advertisement or corrigendum (if any) at the advertised location or locality mentioned in the advertisement. It should be easily accessible to general public through a suitable approach road.”

Hence, the requirement is that the showroom should be easily approachable to general public through a suitable approach road. No assumption can be made that such showroom should be on the ground floor itself. In such circumstance, the contention so raised has to be negated.

5. The further contention is with respect to the non-consideration of the complaint made by the petitioner. The learned counsel appearing for the 4th respondent would

point out that the eligible persons were listed out as per Ext.P3, in which the 4th respondent was also placed at Sl. No. 7. The said final list was prepared on 8.4.2014 and the petitioner as also the other eligible persons, including the 4th respondent, was called for a draw on 3.6.2014, as is indicated in Ext.P4, the communication addressed to the petitioner herein. The petitioner did not raise any objection as to the eligibility of the 4th respondent herein prior to the draw. Even later to the draw, the petitioner had objected to the eligibility of one Tinu Thomas and not the eligibility of the 4th respondent, that too by Ext.P5 dated 28.6.2014. To the said objection raised, Ext.P6 reply was given by the respondent Corporation indicating that it is the 4th respondent who had been successful in the draw and not Tinu Thomas.

6. The grievance redressal mechanism is as provided in Ext.P7 guidelines. But, however, the fact remains, as has been asserted by the learned counsel appearing for the

respondent Corporation that no complaint against the 4th respondent has been received by the respondent Corporation till date. The 'Letter of Intent' itself was issued to the 4th respondent as early as on 18.9.2014. The only complaint received is at Ext.P5, which did not require the invocation of the redressal mechanism for reason that the allegation raised was against a person who had not been successful in the draw.

7. As to the non-transparency of the procedure adopted for draw, the learned counsel for the respondent Corporation would specifically refer to Clause 9 of Ext.P7. The said clause indicates that the scrutiny of the applications initially, would be conducted, based on the information given in the applications. All applicants satisfying the eligibility criteria, as revealed from their applications, would be invited for a draw to be conducted in their presence. It is also submitted that the Field Verification of Credentials (FVC) is not conducted before

the draw since, the threshold eligibility is considered on the basis of the information supplied in the application alone and verified only after selection. Otherwise, the same would involve a cumbersome procedure insofar as the respondent Corporation being called upon to physically verify the details of every single applicant, who has crossed the threshold eligibility. It is also contended that if at all a person coming successful in the draw, fails to satisfy the essential requirements, no 'Letter of Intent' would be issued. Selection being dependent on the draw, that too a mere fortuitous circumstance, the deferment made of the physical verification cannot be faulted with.

8. The draw, as is indicated in Ext.P7, is conducted by two officials of the Company in the presence of an invited guest and also in the presence of all the eligible candidates who have been invited for the draw. Hence, evidently, the petitioner who was invited for the draw was aware of the successful candidate on the draw being taken and there

cannot be any objection raised on the ground of Field Verification of Credentials being conducted after the draw, since the procedure formulated by the respondent Corporation cannot be found to be unreasonable or arbitrary.

9. The petitioner admittedly attended the draw but feigns ignorance about the successful candidate; which contention is impossible of acceptance. The petitioner thus made a complaint with respect to the alleged grant to one of the eligible applicants. The petitioner was informed that the grant was not to the person against whom complaint was raised and was to the 4th respondent. No complaint against that person was made and hence there is no question of the grievance redressal mechanism being invoked. The petitioner challenged the issuance of 'Letter of Intent' to the 4th respondent in the Writ Petition without any sustainable substantiation.

For all the above reasons, the writ petition is found to be devoid of merit and the same is dismissed.

Sd/-
K.VINOD CHANDRAN,
JUDGE