

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2015

Date of Reserving the Order	Date of Pronouncing the Order
11.02.2015	27.02.2015

CORAM

The Hon'ble Mr. Justice T.S. SIVAGNANAM

W.P. No. 9068 of 2014

R.Vijaykumar

.... Petitioner

Vs

Indian Oil Corporation Ltd.,
Rep., by its Chief Area Manager,
Marketing Division,
Indane Area Office,
No.500 Anna Salai,
Teynampet,
Chennai - 600 018.

.... Respondent

Prayer :-Petition filed under Article 226 of the Constitution of India praying to issue Writ of Mandamus, to direct the respondent to consider, process and complete the selection of the petitioner in his favour, by accepting the land comprised in Survey No.142/1, situated in Kolapakkam village, Chengalpattu Taluk in Kancheepuram District proposed by the petitioner, in respect of his application dated 30.12.2013 for Rajiv Gandhi Gramin LPG Vitrak (RGGLV) for Nedungundram/Alapakkam village in Chengalpattu Taluk in Kancheepuram District in Ref:CHAO/NGM/001, without insisting any alternate land, as asked in letter dated 14.03.2014.

For petitioner : Mr.R.Neelakandan

For Respondent : Mr.Mohammed Fayaz Ali

O R D E R

The petitioner seeks for issuance of a Writ of Mandamus to consider and complete the selection of the petitioner as a LPG Distributor by accepting the land offered by the petitioner in Survey No.142/1, in Kolapakkam village, Chengalpattu Taluk, Kancheepuram District, without insisting upon providing an alternate land as communicated by the respondent vide letter dated 14.03.2014.

2. The respondent Oil Corporation invited applications for appointment of LPG Distributors in rural areas under the Central Government Scheme and one of the advertised location was Alapakkam/Nedunkundram. The petitioner filed his application and satisfied the preliminary requirements after which field verification was done to verify the credentials of the land offered by the petitioner in Kolapakkam village. On completion of the field verification, the respondent by letter dated 14.03.2014, informed the petitioner that the Field Verification Committee has conducted the verification of the location offered by the petitioner and submitted their report that the land mentioned in the petitioner's application is located in Kolapakkam village and not in Alapakkam/Nedunkundram villages, which is mentioned in advertisement. The petitioner was informed that if he or the family unit as defined under the advertisement, are in possession of any other lands as on the date of the application, the same can be considered for construction of godown, if it meets the eligibility criteria mentioned in the advertisement. Therefore, the petitioner was requested to submit the documents of the alternate land to the respondent on or before 29.03.2014, failing which his candidature will stand cancelled. In response to the said communication, the petitioner submitted a representation on 20.03.2014, enclosing a map showing the village in which the land offered by him is situated and submitted that the land falls within the advertised location and requested the respondent to consider the same without insisting upon an alternate land. Since no further action was taken, the petitioner has approached this Court by filing this Writ Petition.

3. The learned counsel appearing for the petitioner submitted that the land comprised in Survey No.142/1, is situated in Kolapakkam village, Chengalpattu Taluk in Kancheepuram District, which is situated adjacent and within 500ft from the nearest point of Nedunkundram. It is further submitted that the map issued by CMDA clearly shows that there is only a road in between Nedunkundram

village and the land offered by the petitioner and since there is no other qualified or eligible candidate, the petitioner's application can be processed and he can be selected. Further, it is submitted that no separate advertisement has been issued for Kolapakkam village and hence there can be no impediment to accept the land offered by the petitioner. In support of his contention, the learned counsel placed reliance on the decision of the Hon'ble Division Bench of this Court in the case of R.Vennila vs. Indian Oil Corporation in W.A.No.950 of 2013, and the decision of the Orissa High Court in the case of Prasanta Kumar Panigrahi vs.Union of India & Ors., in W.P. (C).No.16039 of 2010, dated 06.09.2011. By relying upon the decision of the Hon'ble Division Bench of this Court in the case of R.Vennila (referred supra), it is submitted that in the said decision also, the Hon'ble Division Bench pointed out that the advertised location was Pochampalli and though in the documents of title it is referred as Jambukkuttapatti village, it is nothing but a hamlet of Pochampalli. Further, it is submitted that the Orissa High Court has also considered a similar issue and held that the Oil Corporation is not justified to restrict the location to revenue village alone. With the above contentions, the learned counsel prayed for appropriate directions to accept the site offered by the petitioner.

4. The learned counsel appearing for the respondent Oil Corporation submitted that the advertised location was Nedunkundram, Alapakkam villages, Chengalput Taluk, Kancheepuram District. The petitioner's application was considered and field verification of the credential was made on 04.03.2014 and it was found that the land offered by the petitioner is comprised in R.S.No.142/1 of Kolapakkam village, which is not in the advertised location as per the Revenue records. It is further submitted that the land comprised in R.S.No.142/1, forms part of Revenue village of Kolapakkam village and not in the Nedunkundram village or Alapakkam village. Further, it is submitted that the certificate produced by the petitioner dated 05.03.2014, issued by the Zonal Deputy Tahsildar, Chengalput, states that Revenue Survey No.142/1 of Kolapakkam village form part of Nedunkundram village Panchayat, Chengalput Taluk, Kancheepuram District. On receipt of the certificate, the petitioner was informed that though Kolapakkam village forms part of Nedunkundram village Panchayat, it is a different village and will not satisfy the requirement. Thereafter, the petitioner produced another certificate, dated 06.03.2014, from the Zonal Deputy Tahsildar, Chengalput, who certified that Revenue Survey No.142/1 of Kolapakkam village form a part of Nedunkundram village, Chengalput Taluk, Kancheepuram District. It is further submitted that the certificate issued by the Zonal Deputy Tahsildar, Guduvancheri is contradictory

to the certificate dated 06.03.2014 and therefore, the certificate dated 06.03.2014 is patently erroneous for the simple reason that Kolapakkam, which is a separate village cannot form part of another village Nedunkundram. In order to clarify the anomaly, it is stated that the officials of the respondent Corporation were directed to meet the Village Administrative Officers of Nedunkundram and Kolapakkam villages and they confirmed on 13.03.2014 that three revenue villages namely, Nedunkundram, Puthur and Kolapakkam fall under the Nedunkundram Panchayat and survey No.142/4, which stands in the name of Smt.R.Rukmani, which has been offered by the petitioner is situated within the Revenue limits of Kolapakkam and not Nedunkundram. Therefore, a letter was addressed to the petitioner on 14.03.2014 to provide an alternate site. It is further submitted that in order to further clarify the position, the respondent Corporation addressed the Tahsildar, Chengalput, vide letter dated 10.07.2014 and 14.10.2014, however, no reply in this regard was received by the respondent Corporation. Therefore, it is submitted that as per the notification, the advertised location is Alapakkam and Nedunkundram villages and the site offered by the petitioner being located in Kolapakkam village, does not satisfy the requirements. Further, it is stated that contradictory certificates were issued by the Revenue Authorities, which is also one more ground to reject the petitioner's application. Further, it is submitted that the decision in the case of R.Vennila vs, IOC (referred supra), is not identical to the case on hand and in the said case, the Tahsildar issued the certificate stating that Jambukkuttapatti is a hamlet of Pochampalli village and there is no separate Survey numbers in the name of Pochampalli village and therefore, the Hon'ble Division Bench issued the direction. The learned counsel relied upon the decision of the Jharkhand High Court in the case of Rita Devi vs. Indian Oil Corporation & Ors., reported in AIR 2014 Jharkhand 3, and the decision of the Gauhati High Court in the case of Shri Chakra Bharali vs. The Union of India, reported in MANU/GH/0041/2014, to support the contentions that the land offered should be in the notified area, failing which the candidate does not satisfy the requirements of the notification and cancellation was justified.

5. Heard the learned counsels appearing on either side and perused the materials placed on record.

6. The advertisement issued by the respondent Oil Corporation dated 30.11.2013, inviting applications for allotment of LPG dealership of Indane under open category of Rajiv Gandhi Gramin L.P.G., Vitrak (RGGLV) was published on 30.11.2013. The petitioner

applied for allotment of LPG dealership on 30.12.2013 for the location Nedunkundram/Alapakkam in Chengalput Taluk. On scrutiny of the application, the petitioner was found to be eligible and his application was taken up for verification of the credentials by conducting a field verification and accordingly, the same was done on 04.03.2014. The land offered by the petitioner is comprised in Survey No.142/1 in Kolapakkam village. On field verification, the respondent Corporation pointed out that the land offered by the petitioner is not in the advertised location i.e., it is neither in Nedunkundram or Alapakkam. The certificate issued by the Zonal Deputy Tahsildar, Chengalput, dated 05.03.2014, certifies that the land offered by the petitioner of Kolapakkam village form part of Nedunkundram village Panchayat. Another certificate issued by the Zonal Deputy Tahsildar, dated 06.03.2014, certifies that the Revenue Survey No.142/1, form part of Nedunkundaram village, Chengalput Taluk, Kancheepuram District. In the application filed by the petitioner, the petitioner has offered the land owned by his mother in Survey No.142/1, Nedunkundram village (Kolapakkam). Apart from the two certificates which were produced by the petitioner with regard to the location of the site offered by him, the respondent Corporation appears to have embarked upon an exercise to verify the correctness of those two certificates by meeting the Village Administrative Officers of Nedunkundram and Kolapakkam villages on 13.03.2014. The said Village Administrative Officers have given a third version and based on that the petitioner is now being non-suited. There is nothing on record to show that the enquiry made with the Village Administrative Officers, was made after issuing notice to the petitioner. Further, the Village Administrative Officer is an officer subordinate to the Tahsildar.

7. Therefore, the respondent Corporation was not justified in relying on reports of the Village Administrative Officers to ignore the certificates issued by the Tahsildar. If the respondent Corporation had entertained doubt as regards the genuineness of the certificates dated 05.03.2014 and 06.03.2014 issued by the Zonal Deputy Tahsildar, they should have approached the Superior Officer, namely, the Revenue Divisional Officer of Chengalput District for necessary clarification that too should have been done with the knowledge of the petitioner, since any clarification so obtained, is likely to prejudice the rights of the petitioner, in the event, the superior authority renders a finding or issues a certificate, contrary to the certificates issued by the Tahsildar. Therefore, there is an error in the decision making process, which calls for interference. However, at this stage of the matter, no direction as sought for by the petitioner could be granted to complete the

selection process in favour of the petitioner, since there is a discrepancy in the certificates with regard to location of the land offered by the petitioner. Therefore, this Court is of the view that the matter requires consideration of the Revenue Divisional Officer, Chengalput District.

8. In the light of the above, the Writ Petition is disposed of, by directing the respondent Corporation to submit a representation/request to the Revenue Divisional Officer, Chengalput, along with copy of this order requesting for a certificate as regards the location of the site offered by the petitioner and the village within which the said site is located. Along with the representation/request, the respondent is directed to enclose the certificates issued by the Zonal Deputy Tahsildar, dated 05.03.2014, 06.03.2014 and the report submitted by the Village Administrative Officers of Nedunkundram and Kolapakkam villages. On such representation being made to the Revenue Divisional Officer, within a period of two weeks from the date of receipt of a copy of this order, the said authority is directed to issue notice to the petitioner as well as the respondent and hear the parties and then issue the certificate clearly stating as to the location of the land offered by the petitioner. Such orders shall be passed by the Revenue Divisional Officer within a period of three weeks from the date on which, the respondent Corporation submits the representation/request in terms of the above direction. On receipt of the said certificate, it is open to the respondent Corporation to proceed in accordance with law. Till the above exercise is completed, the status-quo prevailing as on date shall be maintained. Since the Revenue Divisional Officer is not a party to the Writ Petition, Registry is directed to communicate the copy of this order to the Revenue Divisional Officer, Chengalput. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Asst. Registrar

/true copy/

Sub Asst. Registrar.

PBN

To

1. The Revenue Divisional Officer,
Chengalpattu.
2. The Chief Area Manager,
Indian Oil Corporation Ltd.,
Marketing Division,
Indane Area Office,
No.500 Anna Salai,
Teynampet,
Chennai - 600 018.

+1cc to M/s.Mohammed Fayaz Ali, Advocate, S.R.No.11230

W.P.No.9068 of 2014

SAI (CO)
CA(04/03/2015)



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