

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR. JUSTICE K.K. SASIDHARAN

W.A. No.683 of 2015

and

M.P. No.1 of 2015

The Territory Manager - LPG
Chennai LPG Territory
Bharat Petroleum Corporation Ltd.
Chennai LPG Bottling Plant
J1-16, SIPCOT Industrial Complex
New Gummidipoondi
Tiruvellore District

... Appellant/Respondent

vs.

R.K. Pradeep Raj

... Respondent/Petitioner

Writ Appeal preferred under Clause 15 of the Letters Patent against the order dated 04.03.2015 passed in W.P. No. 8 of 2015 filed under Article 226 of the Constitution of India praying to issue Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned order passed by the Respondent in his proceedings CHN:LPG:IMP:Puzhal/Kallikuppam, dated 24.12.2014 and quash the same and consequently, direct the Respondent to issue letter of Intent as well as letter of Appointment to the Petitioner.

For appellant : Mr. O.R. Santhanakrishnan

For respondent : Mr. Ar.L. Sundaresan, Sr. Counsel
for Mr. C. Prakasam

JUDGMENT

(delivered by SATISH K. AGNIHOTRI, J.)

The instant intra-Court appeal arises from the order dated 4th March 2015 rendered in W.P. No.8 of 2015.

2. The facts in nutshell, leading to the filing of the instant intra-Court appeal are that the appellant Corporation published a notification on 21st September 2013 in "The Hindu" and "Daily Thanthi", inviting applications for appointment of LPG distributors in the State of Tamil Nadu and Puducherry under various categories. Under the said notification, location specified inter alia was Puzhal/Kallikuppam in Tiruvallur District. In response thereto, the respondent made an application for allotment of LPG distributorship stating the location "Puzhal /(to) Kallikuppam". The said application was considered and the respondent was called for interview. After interview, the officers of the appellant Corporation made field verification for the information given in the application. From the respondent's application, it was found that the respondent was having two showrooms, one at Thirtakeriyampattu Village, Vadagari and Red Hills Post and the other at Bharathidasan Nagar, Shanmugapuram, Red Hills Main Road and that both the show rooms do not fall within the location mentioned in the notification, i.e., Puzhal/Kallikuppam. Accordingly, vide the impugned communication dated 24th December 2014, the respondent was informed that his candidature was found to be not eligible. Being aggrieved, the respondent preferred the instant writ petition, questioning the correctness of the said communication dated 24th December 2014.

2.1 The learned Single Judge, defining the term "location" as indicated infra, allowed the writ petition.

"9. It is to be noted that the location could mean a single location and not multiple locations. Admittedly, the notified area was Puzhal/Kallikuppam, Tiruvallur District. Therefore, what has to be seen is whether the site offered by the petitioner would fall within the location or locality mentioned, since it is not a single location. Any other interpretation given to the instant case considering the fact that there is more than one location would be inconsistent with the object of the notification. The respondent would be justified in contending that it should be restricted only to the location if the site was notified as a single location. Having given an option of more than one site, locality also would be a very relevant factor. Having held so, it has to be seen as to on what ground, the petitioner was non-suited. The basis of the impugned proceedings is a certificate issued by the Tahsildar, Madhavaram, dated 15.12.2014, wherein, the Tahsildar in response to the query made by the respondent Corporation to confirm the locations of Puzhal, Kallikuppam and Surapet (Shanmugapuram) whether they are in Madhavaram Taluk, gave the following reply:

i Puzhal is a separate Revenue Village covered under Madhavaram Taluk, Zone - 3 Division 22 and 23 under Chennai Corporation limit;

ii Kallikuppam Village is not covered under Madhavaram Taluk;

iii Surapet is a separate Revenue Village, it is covered under Madhavaram Taluk Zone - 3 Division 24 under Corporation Chennai limit."

2.2 Aggrieved by and assailing the aforesaid order, the instant intra-Court appeal has been preferred by the appellant Corporation.

2.3 The learned counsel for the appellant Corporation would contend that applications were invited for a particular location/locality, viz., Puzhal/Kallikuppam, specified at Serial No.72 in Tiruvallur District under open category. The respondent made an application indicating the description of the location as "Puzhal /(to) Kallikuppam". On the basis of the applications received, drawal of lots of the eligible 16 applicants was conducted. The respondent, having been found successful, was called for interview. Clause 10 of the Guidelines for selection of LPG distributors provides for verification of the information given in the application by the applicant with the relevant original documents and also on field verification. On verification, it was found that the showrooms as indicated by the respondent do not fall either in Puzhal or Kallikuppam. Ergo, the respondent's candidature was rejected by the appellant Corporation, vide communication dated 24th December 2014.

2.4 The learned counsel for the appellant Corporation would further submit that applications for appointment of LPG distributors were invited for a specific location. A person having showroom in other location is not entitled to consideration. On misrepresentation, the respondent's application was considered and the respondent was allowed to partake in the drawal of lots. Thus, the decision of the appellant Corporation is in accordance with its Guidelines and the respondent was rightly held as not eligible. It is further urged that the learned Single Judge had wrongly interpreted the term "location/locality". The "location" may be a particular spot, but, the "locality" is of the entire area which comprises several residential houses and other buildings. Indisputably, in the case on hand, the locality/location was

specified and the respondent's showrooms were not within the said area. Thus, the impugned order rendered by the learned Single Judge deserves to be set aside.

3. On the other hand, the learned Senior Counsel appearing for the respondent would contend that the showrooms were admittedly between Puzhal and Kallikuppam Villages. The words specified in the notification were "Puzhal/Kallikuppam" and as such, any area located within both the locations/localities may be considered as a part of the specified location. It was not stated that it was either Puzhal or Kallikuppam and the showrooms have to be located within Puzhal or Kallikuppam. Thus, the learned Single Judge has rightly found that the respondent's showrooms had come within Puzhal/Kallikuppam localities.

4. We have examined the rival contentions advanced by the learned counsel for the parties and perused the pleadings and documents appended thereto.

5. Concededly, the notified location/locality was Puzhal/Kallikuppam. If a slash (/) is used in between two places, that means "or". It does not mean that between two locations somewhere, which does not fall either in Puzhal or Kallikuppam. If the notification inviting applications specifies the locality as Puzhal/Kallikuppam, it means that the distributors are required to be appointed either in Puzhal or Kallikuppam area and neither in between both the localities nor in any other place. The location of the showrooms at Puzhal/(to) Kallikuppam is admittedly neither in Puzhal nor in Kallikuppam, but, in between the two villages.

6. At this juncture, for better appreciation of the usage of a slash (/) symbol, the following examples will throw light:

Each child will take his/her science project home tonight
Each child will take his or her science project home tonight

Please proofread/rewrite the story before tomorrow.
Please proofread or rewrite the story before tomorrow.

Dear Secretary/Treasurer
Dear Secretary or Treasurer

7. Next, it is also necessary to appreciate the distinction between the words "location" and "locality". The word "locality" is defined as a "neighbourhood" or "area" or "location". The word

"location" is defined as a "site" or "position". Both the words can be used interchangeably and have to be understood in the context wherein they are employed. In the case on hand, "location/locality" means the area specified in the notification. In the notification, when the locality of "Puzhal/Kallikuppam" is specified under the column "location", it means any location within the said locality.

8. In the case on hand, the object and rationale behind specifying location/locality in the notification is to cater to the needs of the people living in and around the said location/locality. If a distributorship is given to a person in some other location, then, the very purpose of giving distributorship stands defeated or becomes otiose. The notification in this regard is clear, unambiguous and unequivocal. The respondent, by specifying the location as "Puzhal / (to) Kallikuppam", had mis-represented the location of the showrooms. The respondent was aware that the showrooms are not located either in Puzhal or Kallikuppam Villages and as such, it was stated in the application as "Puzhal/(to) Kallikuppam". In such view of the matter, we have no hesitation in holding that the authorities have taken a legal and correct decision by declaring the respondent as not eligible.

9. Further, it transpires that no LPG distributor could be appointed in pursuance of the notification published on 21st September 2013 in Puzhal/Kallikuppam location. Thus, at this stage, it is proper to issue a re-notification affording an opportunity to all the persons, who have the required capacity and intention for the same and who fulfil the requirement to participate in the process and accordingly, the LPG distributorship can be allotted to the most eligible person.

10. Resultantly, the impugned order dated 4th March 2015 is set aside. The communication dated 24th December 2014 impugned before the learned Single Judge is upheld and the instant intra-Court appeal is allowed. Costs made easy. Connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

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Sub Assistant Registrar

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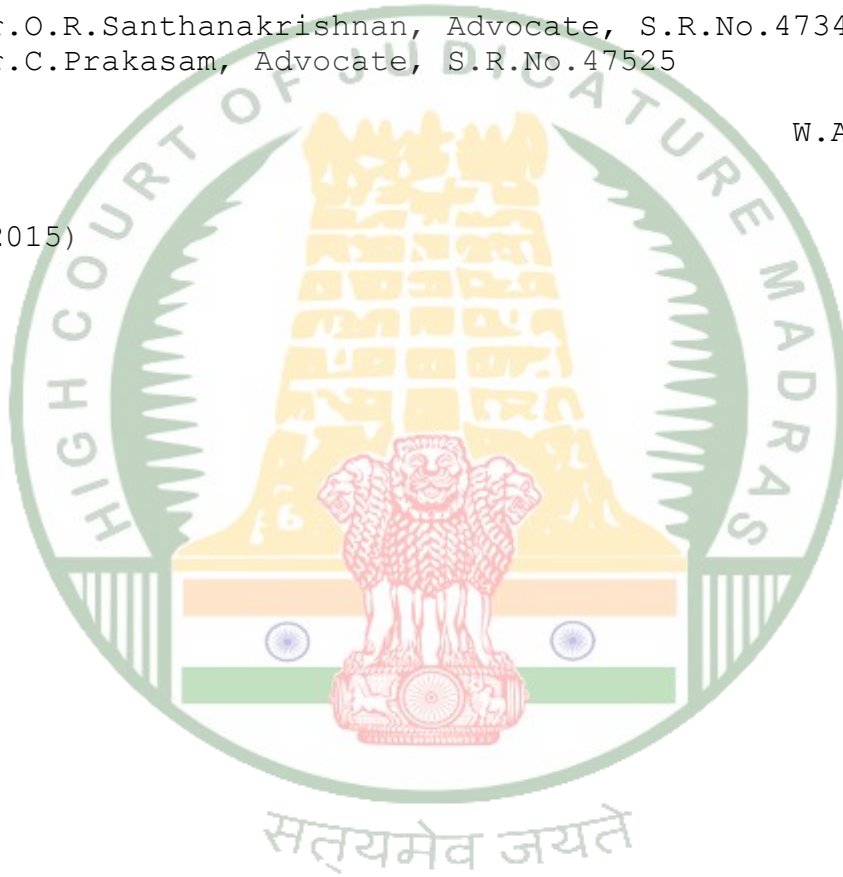
To

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+lcc to Mr.O.R.Santhanakrishnan, Advocate, S.R.No.47347
+lcc to Mr.C.Prakasam, Advocate, S.R.No.47525

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JSV(CO)
CA(21/09/2015)



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