

HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

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WRIT PETITION No. 14075 of 2010

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ORDER:

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The present Writ Petition came to be filed seeking issuance of writ of mandamus declaring the action of the third respondent in cancelling the candidature of the petitioner and selecting fourth respondent as BPCL (Bharat Petroleum Corporation Limited) Retail outlet dealer for Atmakur village, Mahabubnagar District, as illegal, arbitrary and contrary to law.

The factual matrix of the case is that pursuant to a notification dated 03.02.2009 issued by first respondent, calling for appointment of dealership retail outlet at Atmakur, Mahabubnagar District, in the category of Scheduled Caste, the petitioner applied for the same and attended the interview on 13.06.2009. He claims to have secured highest marks amongst all the candidates who appeared for the interview. As there was no communication from the respondents, the petitioner made a representation dated 26.03.2010, to which the 3rd respondent gave a reply dated 12.04.2010 enclosing letters of intimation dated 27.10.2009 and 11.12.2009, stating that the dealership of Atmakur village was allotted to 4th respondent. It is stated that the petitioner never received any intimation from the first respondent and only after repeated representations, the order rejecting his candidature came to be furnished. Challenging the place of allotment of the outlet and also the circumstances under which the said outlet came to be allotted to the 4th respondent, the present Writ Petition is filed.

A counter came to be filed by 2nd and 3rd respondents denying the allegations made therein. It has been specifically averred in the

counter that the petitioner made a false declaration and also filed a false certificate stating that he is resident of Atmakur, which was found to be false in the enquiries made by the respondent. It is their case that since the outlet is to be established in a rural area, additional 20 marks will be given if the petitioner resides in the same revenue village. Eventhough the petitioner failed to establish that he is a resident of Atmakur village, additional marks of 20 were given on the basis of false disclosure made in the application form. It is further stated that since the petitioner failed to submit his objections to the marks deducted, he cannot complain about the same at this point of time. In view of the above, it is stated that there are no merits in the petition and same is liable to be dismissed.

As per the Brochure issued by the Oil Corporation, after allotment of the retail outlet, the Field Officers of the Oil Corporation will enquire into the contents of the application made and basing on the report submitted by the Field Officers, letter of allotment would be issued. At the time of interview, the contents of the application will be taken at their face value and before issuing letter of allotment, the Field Officers of the Corporation would investigate into the contents of the application and the documents filed along with the application. Basing on their report, letter of intent would be issued. Therefore, the argument of the learned counsel for the petitioner that the petitioner though secured highest marks, was never issued letter of allotment, cannot be accepted. But, however, the main argument of the learned counsel for the petitioner is that though he is resident of Atmakur village, the respondent/Corporation erred in rejecting his request by deleting 20 marks allotted to him under the said count.

A perusal of the material placed before this Court, more particularly the counter and documents filed by 2nd and 3rd respondents, would show that on 13.06.2009 five candidates appeared for the Interview and out of them, the petitioner was empanelled as first candidate with 94.93 marks. After conducting the interviews, the second empanelled candidate gave report against the petitioner herein stating that the petitioner is not entitled for additional 20 marks as he is not a resident

of the same Revenue village where the retail outlet is to be located. As per clause 2(iv) of the Notification, if the outlet is located in a rural area and if the candidate resides in the same village, additional 20 marks will be given. Since the exact location of the retail outlet was at Khanapur village, which falls within the larger area of Atmakur Mandal, 20 marks were awarded to the petitioner on a premise that he is resident of Atmakur village. The investigation done by the Field Officer revealed that the petitioner was not a resident of Atmakur village. A notice came to be issued to the petitioner on 27.10.2009 asking him to produce the resident certificate, since 20 marks were awarded to him on residential status. Though the notice dated 27.10.2009 was sent to the petitioner by Registered Post With Acknowledgment due, the petitioner failed to give any explanation to the said notice. Thereafter, an order came to be passed on 11.12.2009 deducting 20 marks from the marks obtained by the petitioner and the same was published on 13.06.2009. Thereafter, the petitioner submitted a letter dated 26.03.2010, to the respondents to, which a detailed reply was given on 12.04.2010, which was served on the petitioner when he came to enquire about his representation. If 20 marks are deleted from the marks obtained, the 4th respondent who got 80.48 marks would automatically be entitled to the outlet. Therefore, it cannot be said that there was any illegality in allotting the outlet to the 4th respondent. Though the petitioner alleges that the 4th respondent was allotted the outlet basing on forged and fabricated documents, no material was adduced to prove the same. If really the same are forged, it is always open to the petitioner to give details of the same, in which event, appropriate authority will conduct an enquiry and proceed in accordance with Law. Hence, I see no merits in the petition and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No costs. Consequently, Miscellaneous Petitions pending if any in this Writ Petition, shall stand cancelled.

C. PRAVEEN KUMAR, J

Date:27.11.2015

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