

HON'BLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No. 27143 of 2010

ORDER:

The present Writ Petition came to be filed seeking issuance of writ of Mandamus declaring the action of the respondents 1 to 3 in not verifying the eligibility and qualification of the respondents 6 to 9 as per the conditions 4(b), 11(1A) and 11(1C) of the Brochure provided along with the application and qualifying them for draw of lots on 04.09.2010 and declaring the candidature of 9th respondent based on the information provided in her application, as illegal, arbitrary and consequently set-aside the final list of applicants who were found eligible and qualified for draw for selection under Rajiv Gandhi Gramin LPG Vitrak Scheme.

The factual matrix of the case is that pursuant to an advertisement given by 1st respondent/Corporation calling for selection of Distributors under Rajiv Gandhi Gramin LPG Vitrak (RGGLV) Scheme 2009-10 at Gospadu, Kurnool District under Open Category, the petitioner submitted her application on 30.04.2010. About 14 persons applied for the same and the petitioner is said to be fully qualified for selection under RGGLV Scheme. Condition No.3 of the Brochure deals with mode of selection of Distributor and selection to be done by way of

draw of lots out of eligible applicants securing minimum qualifying marks, which is 80% of the total marks. Condition No.11 relates to Evaluation criteria. All the applicants who have satisfied the above eligibility criteria will be evaluated out of total 100 marks based on information given in the application. Out of 100 marks, 50 marks for financial capability, 10 marks for income and 40 marks will be allotted towards educational qualification. On 01.09.2010, the 3rd respondent published a list of persons who were found eligible for draw of slots, which included the name of the petitioner. The 3rd respondent called for draw of lots on 04.09.2010 and the 9th respondent was selected in the draw of lots conducted by the Scrutinizing Committee. It is averred that much prior to the draw of lots, the 3rd respondent herein is said to have written letters to the respondents 6 and 7 stating that since they are not resident of Gospadu village their candidature cannot be considered. In spite of finding that 6th and 7th respondents are ineligible, allowing them in draw of lot and preparing a final list is said to be illegal. Insofar as 8th respondent is concerned, it is stated that he has not deposited the required amount as on the date of application as per condition 11(1A) and hence his candidature also could not have been put to draw of lots. It is the case of the petitioner that the 9th respondent produced incorrect agriculture income certificate issued by

5th respondent and as such she could not also be considered for the draw of lots. Narrating the above aspects, the petitioner herein made a representation to 1st and 3rd respondents on 24.09.2010. The action of 3rd respondent in not verifying the eligibility and qualification of respondents 6 to 9 before putting their applications to the draw of lots is said to be illegal and incorrect. Hence, it is said that final list dated 01.09.2010 for draw of selection of RGGLV issued by 3rd respondent is illegal, arbitrary, unjust and contrary to the conditions stipulated in the notification.

Counters came to be filed by 3rd and 9th respondents denying the allegations made therein. The 3rd respondent/The Territory Manager (LPG), in his counter states that Bharat Petroleum Corporation Limited (BPCL), Indian Oil Corporation Limited and Hindustan Petroleum Corporation Limited together issued an advertisement calling for explanation for selection of distributors under RGGLV 2009-10. Gospadu of Kurnool District was one of the RGGLV locations under open category advertised by Bharat Petroleum Corporation Ltd., and the format of application was made available on the website. It is said that 15 applications were received for RGGLV at Gospadu and the petitioner was one among the 15 candidates. It is further stated in the counter that on the basis of declarations made in the affidavit, the

committee will select the candidates eligible for draw of lots and after selection, the credentials of the selected candidates would be verified by the Field Officers and then only the letter of intent would be issued. It is stated that the agricultural income of the 9th respondent was considered for evaluating marks by the scrutinizing committee based on the information given by the candidate in the application. It has been further stated that candidature of 6th and 7th respondents was considered basing on the information given against Item No.7.3 of the application and the residence certificate issued by Tahasildar, Gospadu Mandal which was enclosed as proof of residence. The candidature of 8th respondent was considered basing on the information provided in the application about his financial capability and if the information provided by the applicant is found to be incorrect during field verification, his candidature for selection of RGGLV distributorship would be cancelled. Insofar as 9th respondent, who is the candidate selected for the dealership is concerned, the scrutinizing committee considered the annual income based on the information given in the application, which would be verified once again in the field verification done to ascertain the credentials. It has been stated that if the information found is incorrect, the selection of the candidate would be cancelled. It is specifically contended by the learned counsel for the Corporation that the field verification was

done and 9th respondent was selected as he fulfilled all the conditions and secured highest marks. It is thus contended that the non-selection of the petitioner, cannot be questioned, since her name was mentioned at Sl.No.9 while putting the names of all the applicants to draw of lots.

Coming to the counter filed by 9th respondent, it has been specifically stated that the allegations made are all false and there is absolutely no material to say that she made a false declaration with regard to her income and assets. The allegation that 9th respondent did not satisfy the requirements under condition No.11(1C) is denied. According to her, Para 11 of the notification deals with evaluation criteria. In respect of assets, five marks are provided to the financial capability of the applicants and the said condition does not stipulate that the applicant should have assets as on the date of notification. Therefore, the allegations made in the petition are not tenable. It is further stated that after receiving the letter of intent, she has taken all requisite permissions including the conversion of agricultural land into non-agricultural land and Gramapanchayat permission for construction godown. Accordingly, a letter of appointment was issued by 1st respondent on 31.03.2011 and she has started running the LPG outlet at Gospadu.

Reiterating the contents of the affidavit filed in

support of the petition, the learned counsel for the petitioner submits that 9th respondent is not entitled for any allotment.

Clause 3 of the brochure deals with the mode of selection of Distributors. As per Clause 3, selection will be done by draw of lots out of all eligible applicants securing minimum qualifying marks. In case of reserved categories, the minimum qualifying mark is 60% whereas for all other categories it is 80%. One of the conditions for applying RGGLV is that the applicant must be a resident of advertised RGGLV location. The common eligibility criteria for all categories are referred to in Clause 4 of the Brochure. Clause 11 deals with evaluation criteria. All the applicants, who have satisfied the eligible criteria will be evaluated for total 100 marks based on the information given in the application. 50 marks for financial capacity, 10 marks for income and 40 marks for educational qualifications. Clause 11(1c) deals with description of other assets as on date of advertisement. 11(2) deals with income from all sources such as property, business, agricultural, interest, dividend, rent earnings, royalty etc. per annum. The marks from out of the criteria referred to above would be selected by draw of lots. Clause 12(9) deals with field verification of selected candidates. It says that field verification will be carried out for the selected candidate and if the information given in the application by the applicant is found to be correct, letter of intent will be

issued to the selected candidate. In case of rejection of selected candidate, draw will be held again from the remaining qualified eligible candidates to select the next candidate following the procedure mentioned in sub clauses 3 to 6 of clause 12. The final list of the applicants found eligible shows that 9th respondent secured 100 marks and the petitioner herein secured 90 marks. As stated earlier, number of marks obtained is not the criteria for allotment of outlet since the names of candidates who have secured more than 80 marks will be put to draw. The petitioner and respondents 6 to 9 got qualified for draw of lots, and the 9th respondent was successful or lucky to be picked in the draw of lots.

But, the learned counsel for the petitioner tried to contend that since 9th respondent herein made a false declaration about her financial assets, her candidature cannot be put to draw of lots. It is true that if any false declaration is made by 9th respondent it would debar her from running the outlet even if it is commissioned. As per the procedure adopted by the Corporation the contents of the application form will be taken at their face value and the successful candidate in the draw of lots would be subjected to field verification. The field verification which has been done before issuance of letter of intent by the officers of Bharat Petroleum Corporation Limited establishes that there was no such false declaration made

by the 9th respondent. A copy of the field inspection report which has been placed on record would show that no false declaration was made by the 9th respondent in the application form.

One of the arguments that was advanced by the learned counsel for the petitioner is that since the property does not belong to the husband of 9th respondent, till the date of execution of deed in his favour on 20.04.2010, the income on the assets cannot be considered for the purpose of selection. It is to be noted that even if such asset was obtained after the date of advertisement, only 5 marks out of total 100 marks gets deducted. Even assuming for the sake of argument that the 9th respondent has got only 95 marks instead of 100 as declared, still she is eligible for placing her name in the draw of lots. The issue as to whether such declaration is false or incorrect will come out only during the field investigation. Since the field investigation did not reveal any false declaration being made, I see no reason to interfere with the allotments made and as such the W.P. 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: 09.12.2015

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