

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:19.07.2016

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

W.P.No.3430 of 2014

and

M.P.No.1 of 2014

B.Prabhakaran

..Petitioner

vs.

1. Regional Manager
Southern Region
Bharat Petroleum Corporation Ltd.,
No.1, Ranganathan Gardens
Off.11th Main Road, Anna Nagar
Chennai 600 040.
2. The Head
LPG Distributor Selection Cell (TN)
Bhart Petroleum Corporation Ltd.,
No.1, Ranganathan Gardens
Off.11th Main Road, Anna Nagar
Chennai 600 040.
3. Territory Manager (LPG)
Bharat Petroleum Corporation Ltd.,
MGM TB Sanatorium (Po)
Sengipatti, Thanjavur.
4. R.Anitha
(R4-impleaded as per order dated
19.07.2016 by MJJ in
WMP No.16676 of 2016 in
W.P.No.3430 of 2014)

.. Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying to issue a writ of mandamus, directing the respondents herein to prepare a fresh drawal list and conduct a drawal of lot after including the petitioner's name in the drawal list as per letter in Ref.No.TN/TAN/TJR/002, dated 13.01.2014, on the file of the 3rd respondent herein.

For Petitioner : Mr.D.Veerasekaran

For Respondents: Mr.O.R. Senthanakrishnan
for R1 to R3
Mr.R. Bharanidharan for R4

ORDER

Heard.

2. This writ petition has been filed, praying that this Court may be pleased to issue a WRIT OF MANDAMUS, directing the respondents to prepare a fresh draw list and to conduct a drawal of lot, after including the name of the petitioner in the drawal list, as per the letter, dated 13.01.2014, issued by the third respondent.

3. The main contention of the learned counsel appearing on behalf of the petitioner is that the petitioner had been fully qualified to participate in the draw of lots, for allotting of LPG Distributorship for Thanjavur, under the OBC category, based on the advertisement, dated 21.09.2013, issued by the Bharat Petroleum Corporation Limited (herein after referred to as the "Corporation"). The learned counsel had further contended that all the necessary conditions, for such participation, had been complied with by the petitioner, including the entering into of a lease agreement, for a period of over 15 years, in respect of the land in question. Further, by the communication sent by the Territory Manager, (LPG, Thanjavur) of the Corporation, dated 13.01.2014, the petitioner had been informed that he was qualified for selection of LPG Distributorship. However, by a communication, dated 08.01.2015, issued by the Corporation, the petitioner had been informed that he was found to be ineligible, for the grant of LPG Distributorship, as the land offered for the godown was not from the "family owned".

4. The learned counsel appearing on behalf of the petitioner had further contended that the draw of lots, held on 05.02.2014, for the selection of the candidates, for the grant of LPG Distributorship, was arbitrary and illegal, as the name of the petitioner has not been included for such drawal. Therefore, the petitioner had preferred the present writ petition, before this Court, under Article 226 of the Constitution of India. It has also been contended that, by an interim order, dated 05.02.2014, this Court had directed the respondents, in the writ petition, not to confirm the selection.

5. A counter affidavit has been filed on behalf of the respondents 1 to 3, denying the claims made by the petitioner.

6. The learned counsel appearing on behalf of the respondents 1 to 3, had submitted that the draw of lots for the selection of a candidate, for the grant of LPG Distributorship, at Thanjavur, had been held on 05.02.2014, even before the interim order passed by this Court, on 05.02.2014, had been communicated to the said respondents. He had further submitted that R.Anitha, wife of J.Sampath, had been selected in the draw of lots for the grant of the LPG Distributorship. It has been further contended that one of the conditions, prescribed in the brochure and guidelines, for selection of the regular LPG

Distributors published during the month of May, 2013, it has been stated that the applicants should have own land, or the land should have been taken on lease for the construction of the godown, for a minimum period of 15 years, in the name of the applicant. The meaning of the word 'owned' has been given on page No.8 of the brochure supplied to the applicant along with the application. 'Own' means, having ownership or title of the property or registered lease agreement, for a minimum of 15 years, in the name of the applicant. However, the lease agreement furnished by the applicant has not been registered. Therefore, the applicant had been disqualified from participating in the selection process. Hence, the name of the applicant had not been added in the list of candidates included in the drawal of lots for the grant of LPG Distributorship.

7. The learned counsel appearing on behalf of the fourth respondent had submitted that the fourth respondent had been selected, for the grant of LPG Distributorship, for Thanjavur, in accordance with the procedures laid down in the application for such distributorship, and by following all the necessary procedures prescribed in the brochure. She had been selected based on the draw of lots. Therefore, the present writ petition filed by the petitioner, is devoid of merits and therefore, it is liable to be dismissed.

8. It is noted from the records that, even though the petitioner, who does not own any land for the construction of godown, had furnished to the respondents a lease deed, dated 21.10.2013, which was for a period of 16 years. It is also noted from the application signed and submitted by the petitioner, on 21.10.2013, that he had read the terms and conditions applicable to the LPG Distributorship mentioned in the advertisement/brochure and that the petitioner had fulfilled the eligibility criteria for the LPG Distributorship. Admittedly, as per the terms and conditions prescribed in the brochure and the guidelines for regular LPG Distributorship published during the month of May, 2013, for the grant of LPG Distributorship for Thanjavur, the applicant should furnish to the respondents a registered lease deed for a minimum period of 15 years in the name of the applicant. However, from the records, it is clear that the lease deed furnished by the petitioner, to the respondent-Corporation, had not been registered, as admitted by the learned counsel appearing on behalf of the petitioner. As such, the petitioner is not eligible to participate in the drawal of lots for the grant of LPG Distributorship for Thanjavur.

9. In view of the submissions made by the learned counsels appearing on behalf of the parties concerned and in view of the fact that the petitioner had not complied with the conditions prescribed in the application, for the grant of LPG Distributorship for Thanjavur, this Court is of the view, that the present writ petition filed by the petitioner, is devoid of

merits. Therefore, the writ petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vj2

+1cc to Mr.R. Bharanidharan, Advocate, S.R.No.40421
+1cc to Mr.R. Santhanakrishnan, Advocate, S.R.No.40517
+1cc to Mr.D. Veerasekaran, Advocate S.R.No.40514

SKV(CO)
EU(05/08/2016)

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