

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.26368 of 2011
and
M.P.Nos.1 & 2 of 2011

T.Soundarrajan

... Petitioner

Vs.

1.The State Level Co-ordinator (TN & PY]
& Executive Director,
M/s.Indian Oil Corporation Ltd.,
Indian Oil Bhavan,
Nungambakkam High Road,
Chennai-600 034.

2.The Chief Divisional Manager,
M/s.Indian Oil Corporation Ltd.,
No.500, Anna Salai,
Chennai-600 018.

3.Dealer Selection Committed,
M/s.Indian Oil Corporation Ltd.,
Indian Oil Bhavan,
Nungambakkam High Road,
Chennai-600 034.

4.M.Ammukutti

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records and to quash the Summary of the 3rd respondent dated 14th February, 2011 insofar as the marks awarded to the 4th respondent are concerned and the order the 2nd respondent dated 27th August, 2011 in Ref.New RO/Tirutani Town & Per. And consequentially to direct the respondents 1 to 3 to award the dealership of retail outlet of the Indian Oil Corporation in 'Tirutani Town and Periphery' region to the petitioner.

For Petitioner : Mr.S.Silambanan, Senior Counsel
M/s.P.Krishanan

For respondents : Mr.M.Ravindran, Senior Counsel
Mr.V.Anantha Natarajan (For R1 to 3)

Mr.A.Selvanadan (For R4)

ORDER

This writ petition has been filed by the petitioner praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned Summary of the 3rd respondent dated 14th February, 2011, insofar as the marks awarded to the 4th respondent are concerned and also the order the 2nd respondent dated 27th August, 2011 in Ref.New RO/Tirutani Town & Per. and to quash the same and consequentially, to direct the respondents 1 to 3 to award the dealership of retail outlet of the Indian Oil Corporation in 'Tirutani Town and Periphery' region to the petitioner.

2.In the affidavit filed in support of the writ petition, it has been averred by the petitioner as follows:-

2-1.The petitioner is a fleet operator carrying on business in the name and style of M/s.Aishwarya Transports. Pursuant to the news paper publication dated 23.12.2010 issued by the M/s.Indian Oil Corporation Ltd, calling for applications for award of dealership for a Retail Outlet in Tiruttani Town and Periphery, the petitioner had applied for the same vide application dated 16.11.2010. Subsequently, the petitioner received a letter dated 21.02.2011 from the 2nd respondent intimating him to attend the interview scheduled to be held on 14.02.2011 at his office. Accordingly, the petitioner attended the interview on the said date and he had also duly produced all the requisite documents in original for the perusal of the official respondents. The respondents-Corporation had issued a brochure, wherein norms were stipulated to be followed while evaluating the candidates, and categories, qualifications thereof and parameters for awarding the marks were clearly earmarked. The respondents were not to deviate from the parameters set forth under the said brochure and shall strictly adhere to the same while awarding marks to the candidates.

2-2.On same day, ie., 14.02.2011, the Selection List was displayed in the office of the 2nd respondent. The petitioner was taken a back on seeing the Selection List, wherein one M.Ammukutti (4th respondent herein) was placed at first. The petitioner was awarded a total of 87.6 marks and 4th respondent was awarded 88.8 marks. The Selection Committee had

deliberately awarded higher marks for the 4th respondent, especially in the categories of experience, future plans and personality.

2-3. It is the further case of the petitioner that the father of the 4th respondent is currently a retail outlet dealer of the Indian Oil Corporation, which has induced the respondents 1 to 3 to act in such a manner so as to facilitate the award of dealership in favour of the 4th respondent. The 4th respondent is a house wife, who has no experience in running any business whatsoever, much less a retail petroleum outlet. According to the petitioner, the 4th respondent had produced an experience certificate as if she was employed in her father's petrol bunk. However, the falsity in the claim of experience of the 4th respondent would come to light if the salary vouchers, provident fund account and other particulars are called for.

2-4. It is further stated by the petitioner that a perusal of the Selection Summary dated 14.02.2011 issued by the respondents-Corporation would reveal that the 4th respondent has been awarded four full marks in the category of 'Experience'. As already stated, the 4th respondent is a house wife and she has no previous experience at all. On the other hand, the petitioner is engaged in Fleet Operation business and as on date, he owns 25 lorries and hence, his knowledge and experience in the said field is vast.

2-5. Aggrieved by the Selection Summary dated 14.02.2011 issued by the respondents-Corporation, the petitioner addressed a letter dated 05.03.2011 to the respondents 1 & 2, highlighting the various mistakes and deviations committed by the Selection Committee in the evaluation procedure and sought the 2nd respondent to immediately intervene in the issue and resolve his grievance. Pursuant to his representation, an One Man Commission was constituted by the Corporation, who had conducted an inquiry and also inspected the site. The petitioner understood that One Man Commission had recommended the award of dealership in his favour. However, instead of following the findings of the One Man Commissioner, subsequently, a Two Man Commission was constituted to inquire into the issue. The Two Men Commission also conducted a detailed inquiry into the matter. According to the petitioner, the Two Man Commission had also arrived at a finding in his favour. However, despite the finding of the Commissions, the 2nd respondent had sent a letter dated 27.08.2011 to the petitioner, whereby the petitioner was intimated that his complaint was closed as it was not sustainable. Hence, the petitioner has filed the present writ petition before this Court for the relief as stated surpa.

3. When the matter came up before this Court on 16.11.2011, an interim order of status quo was ordered by this Court.

4. The 2nd respondent has filed a detailed counter, denying the allegations of the petitioner.

5. Heard both sides and perused the materials available on record.

6. Today, as per the directions of this Court, the official respondents produced the relevant files and the same were also perused by the learned senior counsel for the petitioner. After perusing the files, the learned senior counsel for the petitioner submitted that One Man Commission had recommended for awarding the retail outlet in favour of the petitioner. In spite of the same, the respondent-Corporation constituted a Two Man Commission. The Two Man Commission enquired into the matter and submitted a report contrary to the report filed by the One Man Commission. Accepting the report submitted by the Two Man Commission, the complaint/representation of the petitioner was closed by the respondent-Corporation. In this regard, the learned senior counsel for the petitioner invited the attention of this court to Clause 18(A) (iii) of the Brochure issued by the respondent-Corporation, and submitted that there is no provision under Clause 18 to constitute a Two Man Commission. But, in the instant case, since the One Man Commission has given a report recommending in favour of the petitioner, the respondent-Corporation constituted the Two Man Commission and thereafter, closed the complaint/representation of the petitioner.

7. But, the learned senior counsel appearing for the respondent-Corporation, by filing a detailed counter, contended that originally, on receipt of the petitioner's complaint/representation, One Man Commission was appointed and he enquired into the matter and filed report on 17.03.2011 and the same was gone through by the Competent Authority and found that it was not clear and not based on the policy of the Corporation. Hence, it was decided by the Competent Authority to appoint higher level officers comprising of Chief Divisional Retail Sales Manager of Madurai Divisional Officer and Chief Area Manager of Chennai Area Office and those officers were asked to review and give their recommendations. Accordingly, they also submitted their report after conducting enquiry. Report submitted by the said two officers was accepted and the complaint/representation of the petitioner was closed.

8. However, it is submitted by the learned senior counsel appearing for the petitioner that before the One Man Commission or Two Man Commission, no notice was issued either to the

petitioner or to the 4th respondent. Thus, the learned senior counsel for the petitioner submitted that since no notice was issued and no proper enquiry was conducted into the matter, the matter may be remanded back to the official respondents for fresh consideration.

9. In view of the submissions made on either side and considering the facts that no notice was issued to the petitioner before the enquiry by the One Man Commission as well as Two Man Commission and that reports filed by them are also contrary to each other, this Court is of the view that it would be appropriate to set aside the impugned order and remand the matter back to the official respondents for fresh consideration.

10. Accordingly, the impugned order dated 27.08.2011 is set aside and the matter is remanded back to the official respondents, with a direction to appoint a Committee, which shall conduct enquiry and file a report, after affording an opportunity of personal hearing to the petitioner and to the fourth respondent, and pass appropriate orders on merits and in accordance with law, within a period of six weeks from the date of receipt of a copy of this order.

With the above terms, the writ petition is allowed. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. The State Level Co-ordinator (TN & PY]
& Executive Director,
M/s. Indian Oil Corporation Ltd.,
Indian Oil Bhavan,
Nungambakkam High Road,
Chennai-600 034.

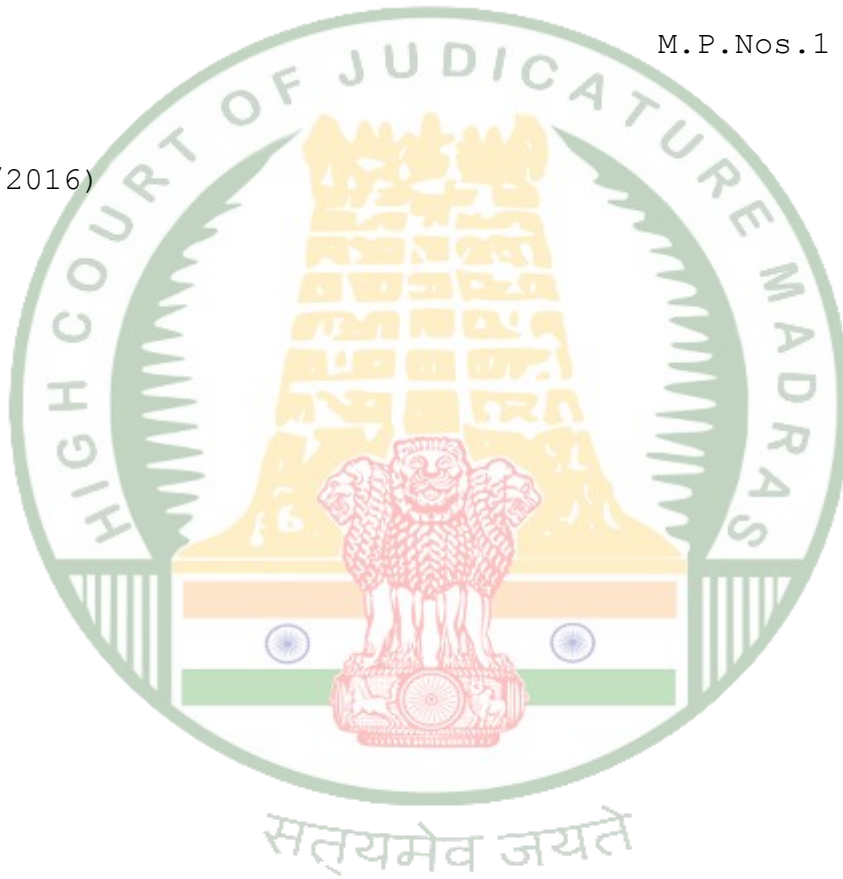
2. The Chief Divisional Manager,
M/s. Indian Oil Corporation Ltd.,
No.500, Anna Salai,
Chennai-600 018.

3.Dealer Selection Committee,
M/s.Indian Oil Corporation Ltd.,
Indian Oil Bhavan,
Nungambakkam High Road,
Chennai-600 034.

+1cc to Mr.V.Anantha Natarajan, Advocate, S.R.No.17621
+1cc to Mr.D.Kanagasundaram, Advocate, S.R.No.17620
+1cc to M/S.P.Krishnan, Advocate SR.17458

W.P.No.26368 of 2011
and
M.P.Nos.1 & 2 of 2011

sns (CO)
srg (31/03/2016)



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