

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.06.2016

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.19269 of 2016
and WMP.No.16728 of 2016

RK.Pradeep Raj

.. Petitioner

Vs.

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

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus forbearing the respondent from conducting lucky draw to be held on 11.06.2016 for the location of Puzhal/Kallikuppam as per order passed by this Court in W.A.No.683 of 2015 dated 02.09.2015.

For Petitioner : Mr.C.Prakasam

For Respondent : Mr.Vijayan

O R D E R

By consent, this writ petition is taken up for final disposal.

2. The petitioner would state that the respondent Corporation has called for applications for appointment of LPG Distributorship by effecting paper publication in Daily Thanthi dated 21.09.2013 and the petitioner had applied for LPD Distributorship for Puzhal/Kallikuppam location under open category and paid the prescribed fee also. The petitioner, in the application, has specifically mentioned the proposed showroom to be located at Puzhal-Kallikuppam locality i.e., at Door No.2/137, Bharathidasan Nagar, Shanmugapuram, Redhills Main Road, Puzhal Block and also enclosed the registered Lease Deed. There was a drawal of lot and the petitioner became successful and on field verification, some discrepancies were noted and

therefore, his application for grant of LPG Distributorship was rejected by the respondent on 24.12.2014. The petitioner made a challenge to the same by filing W.P.No.8 of 2015 and this Court, vide order dated 04.03.2015, has set aside the said order and a positive direction was issued to the respondent to consider the petitioner's application and issue Letter of Intent as well as Letter of Appointment to the petitioner, if the petitioner is otherwise found to be eligible within a stipulated time. The respondent, aggrieved by the same, filed an appeal in W.A.No.683 of 2015 and a Division Bench of this Court has set aside the order passed in the writ petition, vide order judgment dated 02.09.2015 and upheld the impugned communication dated 24.12.2014 passed by the respondent. It is relevant to extract para 9 of the said judgment:

"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 distributorship can be allotted to the most eligible person."

Thereafter, the respondents has issued a paper publication in Daily Thanthi dated 08.06.2016 calling for eligible persons to participate in the drawal and aggrieved by the same, the present writ petition is filed.

3. Mr.C.Prakasam, learned counsel appearing for the petitioner would submit that the respondent did not follow the directions issued in para 9 of the Division Bench judgment and in spite of issuance of fresh notification, commenced the selection process with remaining persons and prays for interference.

4. Per contra, Mr.Vijayan, learned counsel appearing for the respondent has drawn the attention of this Court to the Brochure on Guidelines for Selection of Regular LPG Distributors and would submit that admittedly, the petitioner was issued with the order of rejection and it was put to challenge in W.P.No.8/2015 which came to be allowed and on appeal by the respondent in W.A.No.683/2015, it was set aside and para 9 of the judgment makes it clear that all the persons, who have the required capacity and intention for the same and who fulfil the requirement to participate in the process be afforded opportunity and accordingly, the distributorship can be allotted to the most eligible person. The petitioner was disqualified and age limit is also prescribed and since age limit is prescribed in Clause 6.1, if the other remaining participants are excluded, they may not participate in the next selection

process at all and in terms of Clause 11.2, notification came to be issued in Daily Thanthi and prays for dismissal of this writ petition.

5. This court has considered the rival submissions and also perused the materials placed before it.

6. The application submitted by the petitioner for LPG Distributorship came to be rejected and though challenge made by the petitioner initially was successful, on appeal it was set aside by this Court granting liberty to the petitioner to proceed with the process in accordance with the requirement. As rightly contended by the learned counsel appearing for the respondent, in the light of age restriction, the respondent has to consider the eligibility of the remaining participants; otherwise, they may not be able to participate in the next selection process. Clause 11.2 gives power to go for re-draw and as per Clause 11-2(a), "rejection of selected candidates due to findings in the filed verification" as one of the conditions for re-draw and therefore, calling for remaining participants/applicants in the considered opinion of the Court, is in order.

7. In the light of the reasons assigned above, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

jvm

-s/d-

Assistant Registrar(VI)

True Copy

Sub-Assistant Registrar

To

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

+ 1 cc to Mr.C.Prakasam, Advocate SR 31226

+ 1 cc to M/s.King & Patridge, Advocate SR 31168

pa(co)
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