

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.16004 of 2010

and

M.P.No.1 of 2010

P.Indira

.... Petitioner

Vs.

1.The General Manager,
(Formerly Executive Director),
Indian Oil Corporation Ltd.,
Marketing Division,
Southern Region,
Indian Oil Bhavan,
No.139, Nungambakkam High Road,
Chennai - 600 034.

2.The Executive Director/TNSO,
Indian Oil Corporation Ltd.,
Marketing Division, Indian Oil Bhavan,
No.139, Nungambakkam High Road,
Chennai - 600034.

3.A.R.Rose Kumar Kumanan

4.V.A.Rajendran

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent dated 29.1.2010 made TNLA/WA/1922 and quash the said proceedings of the first respondent dated 29.1.2010 and consequently, direct the respondents 1 and 2 to award the dealership for the retail outlet at Syndanham Road, Chennai to the petitioner.

For Petitioner : Mr.A.Jenasenan

For Respondents 1 & 2 : Mr.M.Vijayamehanath
for M/s. Anand, Abdul and Vinodh
Associates.

For Respondents 3 & 4 : Mr.R.Kannan

O R D E R

Prayer in the Writ Petition is to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent dated 29.1.2010 made in TNLA/WA/1922 and quash the said proceedings of the first respondent dated 29.1.2010 and consequently, direct the respondents 1 and 2 to award the dealership for the retail outlet at Syndanhams Road, Chennai, to the petitioner.

2. The short facts leading to the filing of this case is that the petitioner had applied to the official respondents, for award of dealership of a retail outlet of Indian Oil Corporation at Syndanhams Road, Chennai, to sell their petroleum products. His application was rejected as he was not selected and only the third respondent, viz., A.R.Rose Kumar Kumanan was selected. Since the said outlet had to be given only for the persons belonging to Scheduled Caste Community as the said outlet was exclusively earmarked for awarding to the persons belonging to weaker section, viz., Scheduled Caste Community and the third respondent, according to the petitioner, since does not belong to Scheduled Caste Community, the award of retail outlet given by the first respondent and second respondent to and in favour of the third respondent is bad. Therefore, he had agitated the issue before the first and second respondents. The application given by the petitioner against the said third respondent was considered by the first and second respondents and ultimately, on 29.1.2010, an order was passed taking into account the only contention raised by the petitioner regarding the community status of the third respondent. The said order dated 29.1.2010 passed by the first respondent is under challenge in this Writ Petition.

3. Heard both sides.

4. The one and only contention for consideration of this Court as submitted by the learned counsel for the petitioner is that the third respondent claimed to be a Community of Scheduled Castes, however, in a School Certificate, his Community has been shown as "Catholic Scheduled Caste, Pallan". Once he belongs to the Christian Religion, then his (Hindu) Community

cannot be considered as 'SC' and therefore, the award of petrol outlet given to the third respondent is bad. Therefore, the same has to be cancelled and the next person who is entitled to get the same is the petitioner who is an unsuccessful candidate and therefore, in his favour, outlet has to be given.

5. The learned counsel appearing for the first and second respondents would contend that the only contention raised by the petitioner was enquired and on consideration of the community status of the third respondent who produced a Community Certificate issued by the competent authority, ultimately, the order of rejection was passed on 29.1.2010 which is impugned herein.

6. The learned counsel appearing for the third respondent filed a typed set of papers where he has produced a Community Certificate dated 3.8.1981 issued by the Head Quarters Deputy Tahsildar, Mudukulathur and also a permanent Community Certificate issued by the competent authority on 23.9.1989 in Certificate No.5360/81. In both the Certificates, the Community of the petitioner has been clearly mentioned as Hindu (Pallan), which belongs to Scheduled Castes Community. He contended that in view of the categorical documents of Community Certificate issued by the competent authority, the community status of the petitioner can no more be questioned.

7. This Court have considered the submissions made by the learned counsel for the respective parties.

8. The only objection on behalf of the petitioner for having given petrol outlet to the third respondent that the third respondent does not belong to Scheduled Castes Community and therefore, the quota of Scheduled Castes Community for which the said petrol outlet had to be given, should not have been given to the third respondent, cannot be accepted by this Court in view of the Community Certificate produced by the 3rd respondent obtained from the competent authority both on temporary basis and also permanently. On a perusal of the said certificate, this Court cannot find any reason to take a different view that the third respondent does not belong to the Scheduled Caste Community. In view of the categorical evidences produced on behalf of the third respondent, which could have been accepted by the first and second respondents before awarding the said petrol outlet, there is no plausible reason on the part of the petitioner to agitate the same and to contend that there is no justification on the part of the first and second respondents to reject the candidature of the petitioner by accepting the candidature of the third respondent. This Court, therefore, is of the considered view that there is no infirmity in the impugned order.

9. Therefore, the Writ Petition is liable to be dismissed and accordingly, is dismissed. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

asvm

Copy to:

- 1.The General Manager,
(Formerly Executive Director),
Indian Oil Corporation Ltd.,
Marketing Division,
Southern Region,
Indian Oil Bhavan,
No.139, Nungambakkam High Road,
Chennai - 600 034.
- 2.The Executive Director/TNSO,
Indian Oil Corporation Ltd.,
Marketing Division, Indian Oil Bhavan,
No.139, Nungambakkam High Road,
Chennai - 600034.

+1cc to M/S.Anand, Abdul & Vinodh Associates, Sr.69405
+1cc to M/S.A.Jenasenan, Advocate Sr.69850
+1cc to M/S.R.Kannan, P.Suhadev & V.Ragunathan, Advocate Sr.69731

W.P.No.16004 of 2010
and
M.P.No.1 of 2010

mv[co]
srg 12/4/2017

WEB COPY