

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH
and
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Writ Appeal No.904 of 2016
and CMP.Nos.11591 & 11592 of 2016

P.Perumal

... Appellant

Vs.

1.Union of India represented by its
Secretary to Government of India,
Ministry of Petroleum & Natural Gas,
Government of India, Shastri Bhavan,
Dr.Rajendra Prasad Road, New Delhi - 110 011.

2.State Level Coordinator,
IOCL, BPCL & HPCL Tamil Nadu & Pondicherry (UT),
Indian Oil Corporation Limited,
Indian Oil Bhavan,
Nungambakkam, Chennai - 600 034.

3.M/s.Indian Oil Corporation Limited,
Rep. by its Chairman,
3079/3, Sadiq Nagar, JB Tito Marg,
New Delhi - 110 049.

4.M/s.Bharat Petroleum Corporation Limited,
Rep. by its Chairman & Managing Director,
Bharat Bhavan,
No.26, Currimbhoy Road,
Ballard Estate, Mumbai - 400 001.

5.M/s.Hindustan Petroleum Corporation Limited,
Rep. by its Chairman & Managing Director,
No.17, Jamshed Tata Road,
Mumbai - 400 020.

... Respondents.

Writ Appeal filed against the order dated 17.06.2016 made in
W.M.P.No.17654 of 2016 in W.P.No.20552 of 2016.

WMP.No.17654/16: To grant Interim stay of all further proceedings pursuant to the 4th respondent advertisement dated 15/6/2016 published in "The Hindu" newspaper by allowing the Writ Appeal.

WP.No.20552 of 2016:Writ of Certiorarified Mandamus or any other Writ, order Calling for the records of the 4th respondent herein relating to the advertisement dated 08.06.2016 published in the "Dhina Thanthi" daily newspaper and quash the same and consequently direct the respondents to notified the location in due of 3% reservation for Physically Handicapped are provided by the respondents as followed in the past and future selections and pass such further orders.

For Appellant : Mr.L.Chandrakumar
for Mr.K.Rajendra Prasad

For Respondents : Mr.R.Ravi (For R2 & R3)
Mr.M.Vijayan
for M/s.King & Patridge (For R4)

JUDGMENT

(Judgment of the Court was made by HULUVADI G. RAMESH, J.)

Heard the learned counsel appearing for the appellant, learned counsel appearing for the respondents 2 and 3 and the learned counsel appearing for the 4th respondent.

2.This Writ Appeal is filed as against the order of the learned Single Judge dated 17.06.2016 passed in W.M.P.No.17654 of 2016 in W.P.No.20552 of 2016.

3.The appellant is a Physically Handicapped person and he filed the writ petition challenging the paper publication called for to draw the lot of LPG Distributorship and to direct the respondents to notify the places of 3% quota reserved for physically challenged persons. It is also submitted that as against the notification, earlier, a writ petition was filed by the Physically Handicapped Persons Association in W.P.No.3399 of 2014 and the same was disposed of with a direction to the respondents to ensure 3% reservation for the Physically Handicapped Persons. Without complying the order passed by this Court, the respondents filed an appeal before the Hon'ble Supreme Court in SLP (CIVIL)No.6231 of 2015. The Hon'ble Supreme Court has passed an order directing the parties to maintain status quo as on 09.03.2015. But the respondents without notifying the location of allotment to the physically

challenged persons and against the public policy have issued paper publication.

4. It appears that the learned Single Judge, while entertaining W.P.No.20552 of 2016, has passed an interim order in W.M.P.No.17654 of 2016, pointing out that the selection would be subject to the result of the writ petition. Aggrieved by the same, the appellant is before this court, raising a contention that the said interim order has been passed without going into the merits of the case and the order of status quo passed by the Hon'ble Supreme Court.

5. We have heard the learned counsel appearing for the respective parties for some time. The learned counsel appearing for the appellant brought to our notice that the Hon'ble Supreme Court in the SLP filed by one T.Gayathri Devi, against Union of India and others, whose writ petition was dismissed by a Division Bench of Madurai Bench of this court by order dated 22.12.2015, also passed an order of status quo to be maintained as on date.

6. We have gone through the order passed in the SLP produced before this Court. It is seen that though by order dated 26.02.2016, the order of status quo has been passed by the Supreme Court in SLP(CIVIL)Nos.4908 to 4910 of 2016, filed by some private persons, thereafter, in SLP(CIVIL)No.4634 of 2015 filed by the Indian Oil Corporation, the interim order of status quo was vacated, by order dated 09.05.2016. Further, in the said order vacating status quo, it has been observed that the allotments made during the pendency of the petitions shall be subject to the final outcome of the bunch of cases and also directed the oil companies to incorporate the above expressed condition while making the allotments. However, the appellant/writ petitioner is before this Court seeking to extend 3% reservation to the Physically Handicapped persons, to safeguard their interest, as provided in the very notification issued.

7. On a perusal of the typed set of papers, we could see that the First Bench of this court by order dated 19.12.2014, in W.P.No.3399 of 2014 filed by the Differently Abled Federation Charitable Trust, had passed the following direction :-

"4. In our view, that may be factual position at present, but there is no guarantee for the future. In terms of the avowed object of the said Act and in view of the admission in the affidavit that the Government on a larger plain thus wants a reservation for person with disability, especially when a scheme has to be provided for reservation in all other categories, it must be ensured that if the category is maintained as it is as per the guidelines, a minimum of 3% out of

this 4% category should go exclusively for the benefit of persons with disability.

5. The petition stands disposed of with the aforesaid direction."

It is to be noted that in the above referred to W.P.No.3399 of 2014, the respondents are Indian Oil Corporation, Bharat Petroleum Corporation and Hindustan Petroleum Corporation Ltd., Thus, it is obvious that a minimum of 3% out of this 4% category should go exclusively for the benefit of persons with disability.

8. Taking note of all the above facts and circumstances and also taking into consideration the order passed in W.P.No.3399 of 2014, we direct the Appellant to raise all contentions before the learned Single Judge in the pending W.P.No.20552 of 2016. At the same time, the respondents herein, particularly, the Indian Oil Corporation Ltd., and Bharat Petroleum Corporation Ltd., must ensure that if the category is maintained as it is as per the guidelines, a minimum of 3% out of this 4% category should go exclusively for the benefit of persons with disability, it may either be vertical reservation or horizontal reservation. The learned Single Judge, is requested to consider the contentions raised by the appellant/writ petitioner and dispose of the pending Writ Petition No.20552 of 2016, by taking into account the attendant circumstances and considering the relevant reservation notification.

9. The respondents 3 and 4 are also directed to take into consideration the order passed by this court in W.P.No.3399 of 2014 and work out 3% reservation for Physically Handicapped Persons as per the guidelines issued from time to time or by the regulations framed in this regard.

10. The Writ Appeal is disposed of with the above observation. No costs. Consequently, connected CMPs are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

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Mumbai - 400 020.
- +1 cc to Mr.K.Rajendra Prasad Advocate sr.41823
+1 cc to M/s.King & partridge Advocate sr.41980
+1 cc to Mr.R.Ravi Advocate sr.41836

सत्यमेव जयते

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aa27/07/2016

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