

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No. 6703 of 2016
and
W.M.P.Nos.5943, 5944 of 2016

Vijayamaharajan

... Petitioner

Vs.

1. The District Collector,
Nagapattinam.

2. The Revenue Divisional Officer,
Nagapattinam.

3. The Tahsildar,
Thirukkuvalai,
Nagapattinam District.

4. Head Quarters Deputy Tahsildar,
Taluk Office,
Thirukkuvalai,
Nagapattinam District.

5. Kalai

... Respondents

Writ petition is filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records of 2nd respondent in his proceedings in Na.Ka.284/2016/A2/ dated 23.01.2016 and quash the same and consequently, direct the first respondent to conduct an independent enquiry on the representation submitted by the 5th respondent dated 11.01.2016 and decide the same on merits, without being influenced by the 2nd respondent's proceedings.

For Petitioner : Mr.S.Sounthar

For Respondents : Mr.V.Jayaprakash Narayanan,
Spl. Government Pleader,
for R1 to R4

Mr.R.Sureshkumar,
for M/s.K.M.Vijayan Association,
for R5

O R D E R

With the consent of both sides, the Writ Petition is taken up for final disposal.

2. The petitioner has come forward with the present Writ Certiorarified Mandamus to call for the records of the 2nd respondent in his proceedings in Na.Ka.284/2016/A2/ dated 23.01.2016 and quash the same and consequently, direct the first respondent to conduct an independent enquiry on the representation submitted by the 5th respondent dated 11.01.2016 and decide the same on merits.

3. Heard the submissions of learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

4. The petitioner is having permanent residence at West Street, Kundaiyur, Thirukkuvalai, Nagapattinam District. The Public Sector Oil Company Indian Oil Corporation called for applications from eligible candidates for LPG distributorship in Thirukkuvalai/ Kolappadu/Esanur/Ettukud areas by advertisement dated 29.05.2013. One of the eligibility condition was applicants should be a resident of Thirukuvalai Village. The petitioner fulfilled all eligibility conditions including residential qualifications. Hence, he applied for distributorship. The petitioner has enclosed residential certificate issued by the respondents 2 and 3 along with his application. The 5th respondent and others also applied for distributorship. The petitioner was selected by draw of lots on 12.12.2013. Thereafter, the petitioner was issued letter of intent on 21.02.2014. In pursuance of the same, the petitioner has constructed Go-down for storing LPG cylinders by spending Rs.20 lakhs. He also got necessary approvals from various authorities for commencing distributorship. At this juncture, the 5th respondent filed W.P.No.11269 of 2014 seeking Writ of Prohibition prohibiting Indian Oil Corporation from issuing letter of intent or letter of appointment to the petitioner.

5. According to the learned counsel for the petitioner, in the the said Writ Peittion, he made a false plea that the petitioner was not a resident of Thirukuvalai Village and hence, not satisfied the eligibility criteria. The said Writ Petition was dismissed by this Court on 11.12.2015. However, liberty was given to the 5th respondent to approach the first respondent with proper application for deciding the question whether the petitioner is a resident of Thirukuvalai Village or not. In pursuance of the same, the 5th respondent made a representation on 11.01.2016 to the first respondent stating that the petitioner was not the resident of Thirukuvalai Village and thus, prayed for cancellation of residential certificates issued by the respondents 3 and 4. The first respondent forwarded the application to the second respondent and the second respondent appeared to have conducted an enquiry behind his back and submitted his finding to the first respondent in his proceedings Na.Ka.284/2016/A2, dated 23.01.2016.

6. Now, the case of the petitioner is that enquiry was conducted behind the back of the petitioner. The further case of the petitioner is that without giving opportunity to the petitioner, order has been passed by the second respondent. Therefore, the said order has to be quashed.

7. In view of the submissions, I am of the opinion that the said order has been passed without enquiring the petitioner. Therefore, there is violation of natural justice. Hence, I am of the opinion that the said order is liable to be quashed.

8. Accordingly, the order passed by the second respondent in Na.Ka.284/2016/A2, dated 23.01.2016 is quashed. The matter is remitted back to the second respondent for fresh consideration. The second respondent is directed to conduct enquiry within a period of four weeks from the date of receipt of a copy of this order, after affording opportunity of personal hearing to the petitioner as well as to the necessary parties, if any and pass a fresh order on merits and in accordance with law.

9. The writ petition is disposed of accordingly. Consequently, connected Miscellaneous Petitions are closed. No costs.

mrp

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The District Collector,
Nagapattinam.
2. The Revenue Divisional Officer,
Nagapattinam.
3. The Tahsildar,
Thirukkuvalai,
Nagapattinam District.
4. Head Quarters Deputy Tahsildar,
Taluk Office,
Thirukkuvalai,
Nagapattinam District.

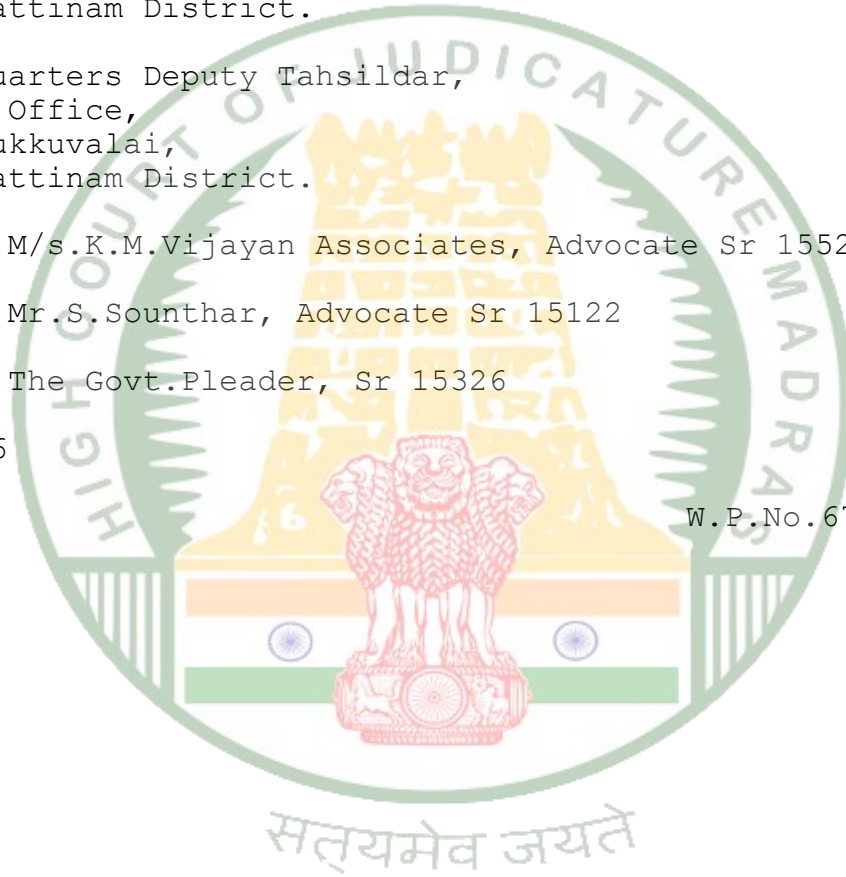
+ 1 cc to M/s.K.M.Vijayan Associates, Advocate Sr 15521

+ 1 cc to Mr.S.Sounthar, Advocate Sr 15122

+ 1 cc to The Govt.Pleader, Sr 15326

KR/18/3/16

W.P.No.6703 of 2016



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