



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2016

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CORAM :

THE HONOURABLE MR.JUSTICE NOOTY.RAMAMOHANA RAO
and
THE HONOURABLE MR.JUSTICE S.S.SUNDAR

Writ Appeal (MD) No.866 of 2014
&
M.P(MD)No.1 of 2014

M.Rajiv Pandian

... Appellant/Respondent

-Vs-

1.Hindustan Petroleum Corporation Limited
Rep. By its Chief Regional Manager,
'Petro Bhavan',
3rd Floor, New No.82,
Old No.47, TTK Road,
Alwarpet,
Chennai - 18.

2.G.Sathya Deepa

... Respondents / Respondents

Appeal filed under Clause 15 of Letters Patent praying to allow the appeal and set aside the order of the learned Judge of this Hon'ble Court made in W.P.(MD) No.4301 of 2014, dated 25.06.2014.

Prayer in WP(MD). 4301/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus calling for the records relating to the impugned order in Ref.No.CHNLRO/RH/L PG-RGGL-13-14 dated 8.2.2014 issued by the 1st respondent and quash the same and consequently direct the 1st respondent to issue the allotment of Rajiv Gandhi Gramin LPG Vitrak (RGGLV) at Ammainanayakkanaur District Dindigul in favour of the petitioner.

For Appellants : Mr.D.Sivaraman
For Respondent 1 : Mr.T.S.R.Venkataramana
For Respondent 2 : Mr.S.Karunakar

**JUDGMENT**

(Judgment of the Court was delivered by **NOOTY.RAMAMOHANA RAO, J.**)

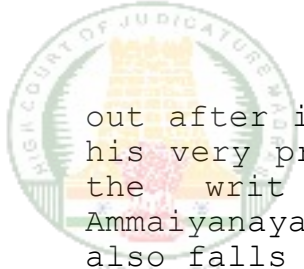
This Writ Appeal is preferred by the writ petitioner whose writ petition has been dismissed by the learned Single Judge by the judgment rendered on 25th June, 2014.

2. Various public sector oil companies have notified for selection of dealership called as Rajiv Gandhi Gramin LPG Vitrak (RGGLV). The notification was published on 29th May, 2013, in Daily Thanthi publication of Tamil language and also other newspapers in English language. Of them, the Hindustan Petroleum Corporation has proposed to establish one such dealership at Ammaianayakkanur of Nilakottai Taluk of Dindigul District, Tamil Nadu. As is also required of such companies to observe principles of reservation while selecting the dealers, representing all the relevant social segments, this particular dealership is reserved for OBC category. The writ petitioner and the unofficial respondent are the two applicants. Under this scheme, the candidate is required to be a resident of the village where the dealership is to be granted and he should also provide the necessary infrastructure in the form of godown, etc., at the same place.

3. The Hindustan Petroleum Corporation finding both the applications as responsive, conducted draw of lots to select one amongst them. Luck favoured the writ petitioner and hence, he was intimated to pay a sum of Rs.20,000/- for the purpose of undertaking verification of his application. It is during the course of verification of his application, the Hindustan Petroleum Corporation has found that he is not normally a resident of Ammaianayakkanur village and that the place where he wanted to establish a godown is also not forming part of Ammaianayakkanur village. Therefore, the Hindustan Petroleum Corporation rejected the candidature of the writ petitioner and instead, preferred the other candidate. That is the reason, the writ petition came to be instituted.

4. Mr. D. Sivaraman, learned counsel for the petitioner / appellant would submit that the Hindustan Petroleum Corporation has acted contrary to the principles of natural justice. Further, without any proper application of mind, it had arrived at a conclusion that the petitioner / appellant is not a resident of Ammaianayakkanur village. It is also contended by Mr. D. Sivaraman that whatever certificates that he has produced along with the application would only disclose the factum of his residing at various other places because of his pursuing education which facility is not readily available at his native Ammaianayakkanur village. It is, therefore, urged before us that the action of the Hindustan Petroleum Corporation in cancelling his selection is bad in law.

5. Per contra, the learned counsel appearing for the Hindustan Petroleum Corporation would urge that principles of natural justice have no role to play in the instant case inasmuch as the corporation has not undertaken any independent exercise but indulged in verification of the particulars furnished by the writ petitioner / appellant himself. This apart, the verification exercise was carried



out after intimating the writ petitioner / appellant and that too, in his very presence. Upon such verification, when it is realised that the writ petitioner / appellant was not a resident of Ammaianayakkanur village and the godown which he wanted to establish also falls outside the limits of the said village but falls within the adjoining village Malayakaundanpatti. Therefore, there is every justification in the corporation treating the application of the writ petitioner / appellant as non-responsive.

6. We have given our anxious consideration to the rival submissions. We had also perused the records produced by the corporation, though it would have been far more convenient if only the corporation had filed its counter affidavit.

7. It is true that the writ petitioner / appellant has applied for establishing the dealership for rural LPG at Ammaianayakkanur village forming part of Dindigul District. He has also claimed that he belongs to OBC category. It is his claim that Bodiyakoundanpatti is in fact forming part of the same panchayat but not a different village panchaya and hence, his application proposing to establish godown thereat cannot be treated differently.

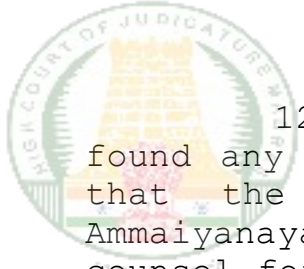
8. When we have perused the application submitted by the writ petitioner / appellant on 04th July, 2013, we have noticed that he had initially the benefit of schooling at the Government Higher Secondary School, Nilakottai, Dindigul District. Thereafter, he had studied +2 course from Government Higher Secondary School, Batlagundu, Dindigul District. So far his graduation is concerned, we gather that he has studied at RVS College of Engineering, Dindigul. He has produced Residence Certificate issued by the Deputy Tahsildar, Nilakottai, disclosing that he is a resident of Bodiyakoundanpatti of Nilakottai Taluk of Dindigul District. Further, the land, where the proposed godown is sought to be established by him, is the land gifted by his father to him which is situated at Malayakaundanpatti, Nilakottai Taluk. Thus, the record would undoubtedly disclose that the writ petitioner / appellant has not been able to formally establish that he is a resident of Ammaianayakkanur grama panchayat. In those set of circumstances, the corporation has found his application as non-responsive.

9. The purpose of establishing these LPG dealerships at the rural areas was to ensure that there would be proper and assured supply of LPG cylinders in required quantities to the rural consumers. It was intended to ensure that the rural consumers will stop using the conventional cooking media and other heavily subsidized fuels such as, kerosene and instead turn to more environment friendly LPG cooking medium. This would also promote various other related benefits such as, health and hygiene and possible environmental improvement. It is, therefore, essential that the dealer must be a resident of the village and he must also be able to establish the godown in the same village so that the supply chain functions smoothly. We are, therefore, of the opinion that the decision of the Hindustan Petroleum Corporation that the application of the writ petitioner / appellant is non-responsive, is not without any merit.



10. Insofar as the contention of the learned counsel for the writ petitioner / appellant that the decision of the corporation is completely in violation of the principles of natural justice, we need to notice that the dealer selection scheme has contemplated a transparent procedure for purpose of awarding dealership. The corporation being a public sector entity is not supposed to indulge in any hand picking of its dealers. Though picking up dealers is only for purpose of promoting the business interests of the corporations, inasmuch as one product or the other of it would be marketed through such a dealer, but nonetheless, since such dealerships confer certain financial benefits in the form of trade commission for the sales carried out, it was essential that the corporation shall follow a fair, transparent and reasonable procedure. As a part of that exercise, an open advertisement has got to be issued inviting all interested candidates to respond for purpose of establishing the outlet concerned. Such of those candidates, whose applications are found to be responsive, have no indefeasible right of selection as they are not assured and guaranteed, to be ultimately awarded by the dealership concerned. The advertisement of the corporation amounts to a mere offer and nothing more than that. The initial selection amongst those applications which are found to be responsive, is only intended for securing verification and local inspection of the infrastructural support sought to be provided by the selected candidate. In the instant case, there are only two applicants for Ammaiyanayakkanur dealership and because there are only two applicants, the method of drawing lots has been adopted for picking up one of them. That is how the application of the writ petition came to be picked up for verification first. The next stage is the actual verification by undertaking physical inspection of the place where the proposed infrastructure is sought to be established. For that purpose, the selected candidate was required to pay Rs.20,000/-. It is in this context, the draw of lots amongst the various applicants acquires significance. Instead of collecting Rs.20,000/- from all the applicants across the board, only the initially selected candidate is made to pay towards the inspection / verification of the infrastructural facilities. Further, the inspection and verification of the infrastructural support undertaken to be provided by the applicant is liable to be carried out in his presence inasmuch as it is he who has to take the inspecting team / officials to the place where the dealership is sought to be established and or where the godown is sought to be established. Therefore, all the factual aspects relating to the verification of the particulars furnished by the applicant is carried out right in his presence. In such circumstances, question of adhering to principles of natural justice of once again putting the candidate on notice perhaps may not be warranted or required.

11. For the aforementioned reasons, we are broadly in agreement with the conclusion drawn by the learned Single Judge and hence, we refrain to interfere with the order of the Hindustan Petroleum Corporation.



12.Further, when we have perused the records, we have not found any credible material for us to come to a firm conclusion that the writ petitioner / appellant was a resident of Ammaianayakkanur village. May be, as Mr.D.Sivaraman, learned counsel for the writ petitioner / appellant, would put it, for the purpose of pursuing education the Appellant may have been staying at various other places like Nilakottai and Batlagundu of Dindigul District. But, nonetheless, the Residence Certificate which he himself produced did not disclose that he is a resident of Ammaianayakkanur. We do not wish to enter into the charter to decipher whether Ammaianayakkanur is a separate revenue village or it forms part of Malayakoundanpatti Panchayat Union or falls within Ammaianayakkanur Special Village Panchayat.

13.Therefore, the Writ Appeal fails. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar

SRM
To
The Chief Regional Manager,
Hindustan Petroleum Corporation Limited,
'Petro Bhavan', 3rd Floor, New No.82,
Old No.47, TTK Road, Alwarpet, Chennai - 18.

+1CC to Mr.D.Sivaraman, Advocate Sr.No.37392
+1CC to Mr.S.Karunakar, Advocate Sr.No.37346

GJM/PEK/28.7.16-5p-4c

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