BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 27.09.2016
CORAM :
THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition (MD) No.13419 of 2016
and
W.M.P(MD)Nos.10046 and 10047 of 2016

A.N.Alagendara Nithi ... Petitioner

Vs.

1.The Senior Area Manager,
Indane Area Office,
Indian Oil Corporation Limited,
No.2, Race Course Road,
Chocckikulam, Madurai 625 002.

2.The Chief Area Manager,
Indane Area Office,
Indian Oil Corporation Limited,
No.2, Race Course Road,
Chockikulam, Madurai 625 002. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order of the 2nd Respondent vide proceedings Ref.No. MAO/imb 13-14/Madurai (Vilangudi) dated 13.07.2016 quash the same and consequently direct the 2nd Respondent to accept the application submitted by the Petitioner and allow him to participate in the selection process for LPG Distributorship Madurai (Vilangudi) area by lot system.

For Petitioner : Mr.V.Niranjan S.Kumar
For Respondents : Mr.K.Muraleedharan
Reserved on : 15.09.2016
Order delivered on : 27.09.2016

ORDER

Challenging the order passed by the second respondent dated 13.07.2016 rejecting the application filed by the petitioner for award of LPG Distributorship at Madurai (Vilangudi) on the ground the petitioner does not have minimum liquid funds of Rs.5 lakhs for urban category, the present writ petition has been filed.

2.According to the petitioner, the respondents called for applications for appointing 296 LPG Distributorship through out the State of Tamil Nadu by way of paper publication dated 21.09.2013. It is submitted that so far as the distributorship at Madurai, (Vilangudi) is concerned, it is reserved for scheduled caste category. Since the petitioner belonged to scheduled caste community, he filed an application as per the guidelines issued by the respondents. Thereafter, the second respondent sent a communication to the petitioner dated 06.06.2016 requesting him to produce surrender value of LIC policy and to produce a lease deed for a minimum period of 15 years for go-down and show room. Pursuant to the said communication, the petitioner submitted both the documents before the second respondent on 01.07.2016. However, without considering his application, the second respondent passed the impugned order stating that his candidature has not been found eligible for LPG Distributorship, as the petitioner did not have minimum liquid funds of Rs.5 lakhs for urban category. Challenging the above said order, the present writ petition has been filed.

3.According to the petitioner, one of the qualifications prescribed for applying for LPG Distributorship is that the applicant should have a minimum total amount of Rs.5 lakhs for location reserved under SC and ST category in the urban markets. The above amount of Rs.5 lakhs, is to be arrived by adding amount in the financial instruments namely, Savings Bank Accounts in Bank/Post Office, free and un-encumbered Fixed Deposits in Banks, Post Office, Listed Companies/Government Organisation/Public Sector Undertaking of State and Central Government, Kisan Vikas Patra, NSC, Bonds, Shares of Listed Companies, Listed Mutual Funds, ULIP, PPF, Surrender Value of Life Insurance Policies in the name of Applicant or family members of the Family Unit of the Applicant.

4.According to the petitioner, he has produced the documents to arrive at closing balance on the last date for submission of application of the petitioner to minimum total amount of Rs.5 lakhs, by submitting his father's bank account statement which has a balance amount of Rs.3,03,709.95 and LIC policy for value of Rs.1,09,793/- and remaining amount was in his father's General Provident Fund (GPF) Account. Even though, the petitioner has fulfilled the minimum requirement of financial capacity as per guidelines, the respondents without considering the GPF Account of the petitioner's father, rejected his application stating that he does not have the liquid funds of Rs.5 lakhs.

5.It is further contended by the petitioner that by a communication dated 06.06.2016, the second respondent only directed the petitioner to submit a surrender value of LIC policy and to produce lease deed for a minimum period of 15 years for go-down and show room which was complied with by the petitioner. It is further submitted that the second respondent having accepted the application in the year 2013, now cannot reject the candidature of the petitioner raising a new plea which was never raised at any point of time. Hence, the order passed by the second respondent rejecting the candidature of the petitioner is arbitrary and illegal.

6.The second respondent filed his counter stating that as per the selection guidelines, while scrutinizing the petitioner's application regarding his financial capacity, the petitioner having a bank balance of Rs.3 lakhs, LIC policy of Rs.1 lakh and GPF Account in the name of his father, A.Nithivannan, for a sum of Rs.1,11,510/-. Whereas as per the selection guidelines, the amount in the GPF Account cannot be considered for his financial capacity and if excluding the GPF account, the petitioner is only having liquid funds to the tune of Rs.4,06,878/- which is less than the eligibility criteria of Rs.5 lakhs. Hence, his application was rejected. The second respondent also filed an additional affidavit on 09.09.2016 stating that pending the writ petition, a draw has been conducted in the office of the second respondent on 06.08.2016 and one Mr.Senthilkumar Palvannan has been selected in the draw for appointment of distributorship for the location of Madurai (Vilangudi).

7.Learned counsel appearing for the petitioner submitted that as per the guidelines issued by the respondents for the minimum liquid assets of Rs.5 lakhs, the amounts available in the financial instruments like namely, Savings Bank Accounts in Bank/Post Office, free and un-encumbered Fixed Deposits in Banks, Post Office, Listed Companies/Government Organisation/Public Sector Undertaking of State and Central Government, Kisan Vikas Patra, NSC, Bonds, Shares of Listed Companies, Listed Mutual Funds, ULIP, Public Provident Fund (PPF), Surrender Value of Life Insurance Policies in the name of Applicant or family members of the Family Unit of the Applicant can be taken into consideration. The GPF Account is also equal to that of public provident fund and the respondents cannot reject the amount available in the GPF Account of the petitioner's father. Hence, the act of the second respondent in not calculating the amount available in the GPF Account of his father, for arriving at the total liquid cash available with the petitioner is totally erroneous and contrary to law. Therefore, the order passed by the second respondent, dated 13.07.2016 is liable to be set aside.

8.Per contra, learned counsel appearing for the respondents would submit that the guidelines issued by the respondent Corporation should be scrupulously followed and GPF Account has been specifically excluded by the Corporation for calculating the financial capacity, hence, the above amount cannot be taken into account. Hence, there is no infirmity or irregularity in the order passed by the second respondent.

9.I have carefully considered the rival submissions.

10.Admittedly, in the guidelines issued by the respondent Corporation, the minimum total amount available with the applicant, as the closing balance on the last date for submission of application is to be arrived at by adding amount available in the financial instruments like Savings Bank Accounts in Bank/Post Office, free and un-encumbered Fixed Deposits in Banks, Post Office, Listed Companies/Government Organisation/Public Sector Undertaking of State and Central Government, Kisan Vikas Patra, NSC, Bonds, Shares of Listed Companies, Listed Mutual Funds, ULIP, Public Provident Fund, Surrender Value of Life Insurance Policies alone and the respondent Corporation specifically omitted to include the General Provident Fund account for calculating the minimum total amount available with the applicant. When the respondent Corporation specifically omitted to include the General Provident Fund account for arriving at the total liquid assets of any applicant, it is not possible for the respondent to include the General Provident Fund account for arriving at the minimum total balance of the petitioner.

11.Invitation to tender as well as the terms and conditions incorporated thereof are not open for judicial scrutiny. In contractual matters, judicial interference is limited. Unless, it is shown that the decision making process is against the well settled principles of law, arbitrary or bias, this Court cannot interfere in exercise of powers under Article 226 of the Constitution of India.

12.It is not the case of the petitioner that the respondent acted in an arbitrary manner or shown bias against the petitioner. The respondents have strictly followed the guidelines issued for allotting LPG Dealership. The guidelines only permitted the Public Provident Fund to be included and not the General Provident Fund for calculating the financial capacity of the applicant and the respondent cannot go beyond the guidelines and include the General Provident Fund. Hence, there is no infirmity in the order passed by the second respondent not including the General Provident Fund amount which is available with the petitioner's father's account as liquid asset of the petitioner. Accordingly, the writ petition fails and the same is dismissed. No costs. Consequently, W.M.P(MD)Nos.10046 and 10047 of 2016 are closed.

Sd/-
Assistant Registrar(Crl.Side)

/TRUE COPY/

Sub Assistant Registrar

+1cc to M/S.NIRARAN S.KUMAR, ADVOCATE SR.No. 56548
+1cc to M/S.K.MURALIEEDHARAN,ADVOCATE, SR NO: 56242

SMS

JA-DB-07.10.2016-4P:3C

Order made in
Writ Petition (MD) No.13419 of 2016
and
W.M.P(MD)Nos.10046 and 10047 of 2016
27.09.2016