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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 12.09.2016

Coram

THE HON'BLE MR.JUSTICE **V.BHARATHIDASAN**

Writ Petition (MD)No.13765 of 2016
and
WMP(MD)No.10268 and 10269 of 2016

T.Gawaskar ... Petitioner

-Vs-

1.Union of India
rep. By its Secretary to Govt. of India
Department of Petroleum and Natural Gas,
New Delhi.
2.Indian Oil Corporation Limited,
rep. By its Chief Area Manager,
2, Race Course Road,
Chokkikulam,
Madurai-02. ... 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 on the file of the 2nd respondent in connection with the impugned order passed in his Proceedings MAO/RMD/16 dated 07.06.2016 and consequential impugned order passed by him in his proceedings MAO/RMD/16 dated 13.07.2016 and quash the both as illegal and arbitrary offending Article 46 of Constitution of India and thereby direct the 2nd respondent to award LPG Distributorship for Ramanathapuram area within the time limit.

For petitioner : Mr.G.Thalaimutharasu
For Respondents : Mr.K.R.Laxman for R-1
Central Govt. Standing Counsel,
Mr.K.Muralidharan for R-2

ORDER

The writ petition has been filed challenging the order passed by the 2nd respondent in his Proceeding No.MAO/RMD/16, dated 07.06.2016, and the consequential order passed by him in his proceeding No. MAO/RMD/16, dated 13.07.2016 and quash the same.

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2. According to the petitioner, the second respondent called for applications for allotment of LPG dealership in Ramanathapuram District, which is reserved for Scheduled Caste category and the petitioner is a scheduled caste candidate, and he made an application on 15.10.2013. Subsequently, by the impugned order dated 07.06.2016, the second respondent rejected his application on the ground that the 'Lease document for showroom not registered and valid for three years only'. Thereafter, the petitioner came to know that the applicant should have either the ownership of title of the property or a registered lease agreement for a minimum period of 15 years. Therefore, on 10.06.2016, he requested the second respondent through a registered post that he will comply with the condition before the completion of the draw and he also sought relaxation under the Scheduled Caste category. He also sent a legal notice seeking time to get the document registered for a period of 15 years. After receipt of the representation, the second respondent, once again, passed another order, dated 13.07.2016, stating that 'the petitioner does not have own land for show room as per Eligibility Criteria'. Challenging the above order, the petitioner has filed the above writ petition.

3.The second respondent has filed a counter affidavit stating that as per clause 6.1 (viii) of the Brochure containing Guidelines for Selection of Regular LPG Distributors, (Common Eligibility Criteria for all Categories applying as individual), if the petitioner does not have any own property, he should have a registered lease agreement for a minimum period of 15 years and the same reads as follows:-

> "The applicant
>
> .....
>
> viii. Own a suitable shop of minimum size 3 metres by 4.5 metre in dimension or a plot of land for construction of minimum size 3 metres by 4.5 metre as on the last date for submission of application as specified in the advertisement or corrigendum (if any) at the advertised location or locality mentioned in the advertisement. It should be accessible to general public through a suitable approach road.
>
> In case an application has more than one shop of minimum size 3 metre by 4.5 metre in dimension or a plot of land for construction of showroom of minimum size 3 metre by 4.5 metre as on the last date for submission of application as specified in the advertisement or corrigendum (if any) at the advertised location or locality as specified in the advertisement, the detailsw of the same can also be provided in the application.
>
> **Reference vii & vii above:**
>
> 'Own' means having ownership title of the property or

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registered lease agreement for minimum 15 yrs in the name of applicant/family member (as defined in multiple distributorship norm of eligibility criteria) as on the last date for submission of application as specified in the advertisement or corrigendum (if any). In case of ownership/co-ownership by family member(s) as given above, consent in the form of a Notarized Affidavit from the family member(s) will be required.

In case the land is jointly owned by the applicant/member of 'Family Unit' (as defined in multiple dealership/distributorship norm) with any other person(s) and the share of the land in t he name of applicant/member of the 'Family Unit' meets requirement of land including the dimensions required, then that land for godown/showroom will also qualify for eligibility as own land subject to submission of 'No Objection Certificate' in the form of an Notarized Affidavit from other owner(s).”

As per the said condition, the petitioner did not possess any own land or having any valid lease for a period of 15 years, his application cannot be considered.

4.Apart from that, today, the learned counsel for the second respondent has filed an additional counter affidavit stating that pending writ petition, totally they have received 32 applications, out of which, 19 applications were found ineligible and 13 applications were found eligible and subsequently, a draw was conducted by the Area Officer, Madurai and on 08.08.2016, one Mr.Gurumurthi Kamaraj was selected for appointment. According to the learned counsel for the second respondent, appointment order was also issued to him.

5.The learned counsel for the petitioner would vehemently contest that he belongs to Scheduled Caste community and the condition imposed by the respondent is onerous and he is not in a position to get a lease for 15 years. Hence, the order passed by the second respondent, dated 13.07.2016 is totally erroneous, as the same states that the petitioner does not own any showroom, as per Eligibility Criteria. The learned counsel relied on a judgment of this Court passed in **W.P.Nos.1537 of 2011 and batch, dated 14.12.2011, (M/.Srishanmuga Enterprises, Dealer, Hindustan Petroleum Corporation Limited, (R.O) Vs. The Secretary to Government of India, Ministry of Petroleum and Natural Gas, New Delhi and 3 others).**

6.As per the the eligibility criteria issued by the respondent corporation, the applicant should possess his own land or should have a registered lease for a period of 15 years. It is

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the admitted case of the petitioner that he does not have any own land or leasehold land for a period of 15 years, on the last date of submitting his application. Hence, the petitioner was found ineligible to file an application. Apart from that, pending writ petition, the allotment process was also over and the dealership was also granted in favour of a third party. Sofar as the judgment relied upon by the learned counsel for the petitioner is concerned, that is relating to a batch of writ petitions filed by the existing dealers, challenging the order of the respondent, granting new outlets in a particular area and it is not applicable to the facts of this case.

7.Considering all the above facts, since the petitioner is not coming within the eligibility criteria for applying for dealership, there is no irregularity in the order passed by the second respondent in rejecting his application. Even though the order of the second respondent, dated 13.07.2016 states that the petitioner does not have any own land for show room as per Eligibility Criteria, the eligibility criteria is that an applicant should have ownership title of the property or a registered lease agreement for minimum 15 years, but the petitioner does not come under any one of the above two categories. Hence, there are no merits in the writ petition. Hence, the same is dismissed. Consequently, connected miscellaneous petitions in W.M.P.(MD).Nos.10268 and 10269 of 2016 are also dismissed. There shall be no order as to costs.

Sd/-
Assistant Registrar(AS)

/True copy/

Sub Assistant Registrar

To

1.The Secretary to Govt. of India
Union of India
Department of Petroleum and Natural Gas,
New Delhi.

2.The Chief Area Manager,
Indian Oil Corporation Limited,
2, Race Course Road,
Chokkikulam,
Madurai-02.

Vs

CSL/SK-SKN/07.10.2016:4P/3C

W.P.(md).No.13765 of 2016
and WMP(MD)No.10268 and 10269 of 2016
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