



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.10.2016

CORAM:

THE HONOURABLE MR.SANJAY KISHAN KAUL, CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

W.A.(MD).No.820 of 2013

and

M.P.(MD)No.2 of 2013

K.Murali Kannishvaran : Appellant
Vs.

1.Bharat Petroleum Corporation Ltd.,
Rep. by its the Regional LPG Manager (South),
No.1, Ranganthan Garders,
Off 11th Main Road,
Anna Nagar,
P.Bag No.1212 & 1213,
Chennai-40.

2.The Territorial Manager LPG (South),
Bharat Petroleum Corporation Ltd.,
Madurai By-pass Road,
Tuticorin.

3.Dealer Selection Committee,
Bharat Petroleum Corporation Ltd.,
Madurai By-pass Road,
Tuticorin.

4.K.Sampath : Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the Order dated 16.10.2012, made in W.P.(MD).No.14458 of 2011 on the file of this Court.

Prayer in WP(MD). 14458/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of writ of Declaration, declaring the selection of the 4th respondent herein ranked as Candidate No.1 for the allotment of LPG Distributorship at Theni Allinagaram, Theni District as Arbitrary, illegal, unjust and unsustainable in law and consequently declare the petitioner as Candidate No.1 for the LPG Distributorship at Theni Allinagaram and direct the 4th respondent to grant distributorship in favour of the petitioner.



For Appellant : Mr.K.P.S.Palanivel Rajan
For Respondents 1to3 : Mr.Natesh Raja
For Respondent No.4 : Mr.M.Ajmalkhan for
K.Appadurai

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JUDGMENT

[Judgment of the Court was made by
The Hon'ble The Chief Justice]

The appellant seeks to assail the allotment of LPG Distributorship at Theni Allinagaram to the fourth respondent by the first respondent/Bharat Petroleum Corporation Limited. The learned Single Judge, in terms of the impugned order dated 16.10.2012, rejected the plea of the appellant.

2. A perusal of the impugned order shows that the appellant had made a representation, within the stipulated time on publication of the result, whereby the appellant was awarded 94.33 marks as against the fourth respondent marks of 95.83. The representation referred to the award of marks in the interview under column "personality/business ability and experience" and vide order dated 05.12.2011, this representation was dismissed, as it was found that such evaluation is done by a three Member Committee, based on interaction during personal interview and marks are awarded based on response to specific situation related queries/questions.

3. Before the learned Single Judge, the grievance made was that pursuant to the representation, the appellant was not given a personal hearing. This plea was rejected on the ground that the Dealer Selection Committee had done comparative merit evaluation and at the stage of representation, there would be no need of personal hearing.

4. Now, before us, the learned counsel for the appellant seeks to raise another issue i.e., in the category of experience, the appellant was granted two marks, while the fourth respondent was granted 3.33 marks. It is the plea of the appellant that the experience marks had to be marked out of two marks and not four marks.

5. Firstly, this plea is not recorded in the impugned order and if it has been so urged, and not considered, then, the appellant ought to have moved the learned Single Judge. Secondly, both the appellant and the fourth respondent have been marked out of four marks uniformly. Thirdly, if the differential marks is seen, it is 1.33, while the total mark differential is still 1.5. ~~Even in this circumstance, the appellant would not cross the total marks of the fourth respondent.~~



6. We are informed that the fourth respondent has started functioning in the year 2013 itself and thus, the dealership has been on for the last three years by now.

7. Thus, we are not inclined to interfere in the appeal. Writ Appeal is, therefore, dismissed. No costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(P&A)

/True copy/

Sub Assistant Registrar

To

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3.Dealer Selection Committee,
Bharat Petroleum Corporation Ltd.,
Madurai By-pass Road,
Tuticorin.

+1cc to K.Appadurai, Advocate SR.No.58035

+1cc to Mr.K.P.S.Palanivel rajan, Advocate SR.No.58180

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JUDGMENT MADE IN
W.A. (MD) .No.820 of 2013
Dated:
03.10.2016