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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.10.2016

CORAM :

THE HONOURABLE MR. JUSTICE V. BHARATHIDASAN

Writ Petition (MD) No.2444 of 2011

and

M.P (MD) No.1 of 2011

S.M.Sheik Fareeth

... Petitioner

Vs.

1. The General Manager (LPG)
Tamil Nadu State Office,
Indian Oil Corporation Limited,
No.139, Mahathma Gandhi Road,
Chennai 34.

2. The Senior Area Manager,
Indane Area Office,
Indian Oil Corporation Limited,
No.2, Race Course Road,
Chokkikulam, Madurai 2.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed in REF:MAO/539/10 dated 16/02/2011 on the file of the 2nd respondent and quash the same and further direct the respondents to give letter of intent to the petitioner for distributorship under the (Rajiv Gandhi Grama LPG Vidarag)RGGLV scheme for Idayakottai, Oddanchatram Taluk, Dindigul District.

For Petitioner

: Mr.D.Venkatesh

For Respondents

: Mr.K.Muraleedharan

ORDER

Challenging the order passed by the second respondent dated 16.02.2011, declaring that the petitioner is ineligible for award of Rajiv Gandhi Grama LPG Vitarak (RGGLV) distributorship at Idayakottai, the present writ petition has been filed.

2. According to the petitioner, the second respondent issued notification calling for applications for appointing distributors for LPG under Rajiv Gandhi Grammin LPG Vitarak Yojna (RGGLV) at various places in Tamil Nadu. Pursuant to the same, the petitioner applied for the location at Idayakottai which is coming under open category vide his application dated 30.04.2010.

<https://hcservices.sco.nic.in/hcservices> stated that there were 10 persons participated and the selection was made by drawing lots and the petitioner was selected in the lot. The second respondent informed him that



after field verification, letter of intent will be given to him. But at the time of field verification, it is informed by the second respondent that as per the terms and conditions, the petitioner did not maintain a minimum balance of Rs.2 lakhs in his Savings Bank account. Hence, the respondents declared the petitioner as ineligible for awarding of LPG distributorship.

3.It is further submitted that on 25.11.2010, the petitioner sent a representation to the first respondent stating that the petitioner was maintaining a sum of Rs.4 lakhs in his Savings Bank Account at the time of filing his application, but the Bank Manager in order to meet their target, transferred the amount deposited in the savings bank account to the petitioner's Fixed Deposit account. The above said amount was still available in the same bank and he has also produced the receipt for the same. But without considering the same, the second respondent passed the impugned order declining to award of distributorship in favour of the petitioner.

4.The second respondent filed a counter affidavit stating that as per the terms and conditions for the selection of distributorship, the petitioner should maintain minimum total amount of Rs.2 lakhs in his Savings Bank Account, It is further stated that on the date of application ie., 30.04.2010, the petitioner has maintained a balance of Rs.43.68 only as against Rs.4,00,118.83 as mentioned in his application and therefore, the marks awarded to him stands revised from 50 to 0 consequently the total marks stands revised to 42 and the petitioner found ineligible. Hence, there is no illegality in the order passed by the second respondent.

5.The writ petitioner filed a rejoinder affidavit stating that even though he has mentioned in his application that he is having Rs.4 lakhs in the savings bank account but without his knowledge the Bank Manager transferred the said amount to his fixed deposit account in the same bank. It is further stated that on the date of filing of his application a sum of Rs.4,00,020/- was available in the fixed deposit account instead of savings bank account. The amount available in the fixed deposit account is permissible for calculating the total amount available to the petitioner account.

6.The above averments made in the rejoinder affidavit were not disputed by the respondents, and it has been admitted that the amount has been transferred to fixed deposit account in the same bank.

7.Learner counsel appearing for the petitioner would further submit that the petitioner also obtained a certificate from the Bank Manager to show that on the date of his



application, the amount of Rs.4 lakhs has been transferred from the petitioner's savings bank account to fixed deposit account on 29.04.2010 and the amount also not been withdrawn by the petitioner as on 23.11.2010 and it is available in his fixed deposit account.

8.A perusal of the certificate issued by the Manager, Lakshmi Vilas Bank dated 23.11.2010, it is very clear that Rs.4 lakhs was available in the petitioner's fixed deposit account on the date of filing of the application, which can be taken into consideration, not considering the financial capacity of the applicant. Even though the petitioner has mentioned in his application that the amount is available in the savings bank account, it was subsequently transferred to his fixed deposit account which will meet the requirement. Therefore, the application cannot be rejected on the ground that the petitioner has wrongly mentioned as if the amount is available with the Savings Bank Account.

9.In such view of the matter, the impugned order passed by the second respondent, dated 16.02.2011 is liable to be set aside and accordingly, it is set aside. The writ petition is allowed. The second respondent is directed to grant RGGLV distributorship to the petitioner under the above said scheme, within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, M.P(MD)No.1 of 2011 is closed.

Sd/
Assistant Registrar(A.S.)

/TRUE COPY/

Sub Assistant Registrar

To

1. The General Manager (LPG), Tamil Nadu State Office,
Indian Oil Corporation Limited, No.139, Mahathma Gandhi Road,
Chennai 34.
2. The Senior Area Manager, Indane Area Office,
Indian Oil Corporation Limited, No.2, Race Course Road,
Chokkikulam, Madurai 2.

+1cc to M/S.K.Muraleedharan, Advocate in SR.No.62595.

+1cc to M/S.D.Venkatesh, Advocate in SR.No.63214.

Order made in
Writ Petition (MD) No.2444 of 2011
and M.P(MD)No.1 of 2011
21.10.2016