

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.11486 of 2011

ORDER:

This Writ Petition is filed under Article 226 of the Constitution of India for the following relief:

"To issue a writ, order or direction more in the nature of Mandamus or any other appropriate writ declaring the impugned proceedings i.e. KNT: LPG: RGGLV (Pamulapadu) dt.09-04-2011 issued by the 2nd Respondent cancelling the candidature of the Petitioner for appointment as LPG Distributor of Pamulapadu of Kurnool District under Rajeev Gandhi Grameena LPG Vitrak Scheme (RGGLV) as illegal, arbitrary contrary to the guidelines issued under Rajeev Gandhi LPG Vitrak Scheme consequentially to set aside the said proceedings issued by the 2nd Respondent."

2. The case of the writ petitioner is that the respondent-Corporation, along with Indian Oil Corporation Limited and Hindustan Petroleum Corporation Limited, issued notification dated 30.03.2010, inviting applications from the interested persons for appointment as LPG Distributors under Rajeev Gandhi Grameena LPG Vitrak Scheme (for short, 'RGGLV Scheme'), which was published

in Eenadu daily newspaper. In pursuance of the said notification, the petitioner has applied for LPG Distributorship at Pamulapadu village in Kurnool District in open category within the time stipulated in the said notification. Respondent No.2 through proceedings dated 27.07.2010, intimated that the petitioner's candidature has not been found eligible on the ground that she is not the resident of Pamulapadu village. Then, the petitioner approached respondent No.2 by stating that though she is native of Juturu village, but her residence was shifted to Pamulapadu as on the date of application and she has submitted a certificate issued by the Tahsildar, Pamulapadu, and on considering the said certificate, respondent No.2, vide his letter dated 16.08.2010, has informed the petitioner along with five others that she was qualified for selection under the RGGLV Scheme asking her to be present along with photo identity proof issued by any Government Department for the draw at

2-00 p.m. on 17.08.2010 at the office of respondent No.2. The petitioner has attended the said draw along with identity proof along with five other candidates, who also applied and qualified for allotment of distributorship at Pamulapadu. One A. Ravi Prakash was declared as the candidate selected for the said distributorship, but later on enquiry done by Field Verification Credentials Committee (for short, 'FVC Committee'), it was found that the said Ravi Prakash has withdrawn the bank balance, which was shown at the time

of his application, and on that ground, his application was rejected. Since the application of the person who was selected at first instance was rejected, respondent No.2 again called for re-draw among the remaining persons for allotment of distributorship on 31.01.2011. The petitioner was also asked to present with photo identity card on 31.01.2011 at 3-00 p.m. and in that re-draw, the petitioner was selected and she was informed about the same. Respondent No.2 addressed a letter dated 03.02.2011 to the Tahsildar, Pamulapadu Mandal, Kurnool District, about the residential proof of the petitioner, and the Tahsildar, in turn, addressed a letter to respondent No.2, vide RocA/26/2011 dated 09.02.2011, certifying that the petitioner was a resident of Pamulapadu. Now respondent No.2 passed the impugned order stating that during the field verification by the FVC Committee, it is found that the certificate produced by the petitioner is genuine, but however, her application was rejected on the ground that she is a resident of Jutur village and not a resident of Pamulapadu and also on the ground that as on the date of application, i.e., 28.04.2010, the petitioner is not maintaining the bank account with a minimum balance of Rs.2,00,000/- and also on the ground the petitioner has not produced certificate issued by the bank and she has not enclosed the loan eligibility certificate as on the date of notification. Aggrieved by the same, the present writ petition is filed.

3. Counter is filed admitting the issuance of notification and receipt of application of the petitioner. It is also stated that as per the certificate issued by the Tahsildar dated 26.04.2010 attached along with the application, the residential status of the petitioner was shown as Jutur and not the advertised location Pamulapadu and, hence, she was declared as ineligible, vide letter dated 27.07.2010. Basing on the certificate dated 13.08.2010, the petitioner was permitted to participate in the draw as the same will be, if selected, verified by the FVC Committee. As the petitioner was successful candidate in the draw, further process was commenced. Basing on the representation received from other eligible applicants of Pamulapadu location dated 31.01.2011 stating that the petitioner is not from Pamulapadu location, respondent No.2 sent a letter dated 03.02.2011 to Tahsildar seeking confirmation of petitioner's residential status. In response to the letter, the Tahsildar addressed a letter dated 09.02.2011 stating that the petitioner was originally residing in Jutur village of Pamulapadu Mandal, and basing on the residence of the petitioner, he had issued a residence certificate on 26.04.2010 in her favour, but subsequently, she and her husband have shifted their residence from Jutur to Pamulapadu village. It is also stated that as per the guidelines for selection of RGGLV Distributorship under Clause No.10.2 – Scrutiny and Evaluation of Applications, marks will be awarded to all the applicants based on the

information furnished by the applicant in the application and as per Clause No.20 – False Information, if any information furnished by the applicant is found to be false at any point of time before or after appointment as a RGGLV, the allotment shall be cancelled forthwith and RGGLV terminated in case commissioned. The averment of the petitioner that surrender value of LIC bonds is Rs.75,000/- was not supported by any document. The FVC Committee approached the Divisional Manager, LIC of India, Kurnool Branch, and it was confirmed by the Divisional Manager that the total surrender value of the policies as on the date of advertisement, i.e., 31.03.2010 is only Rs.42,054/-. But as per Clause No.6.1(vi) – Common Eligibility Criteria for all Categories, applicant, applying for RGGLV should have a minimum total amount of Rs.2,00,000/- put together from saving accounts in the bank as on the date of application, free and unencumbered fixed deposits in scheduled banks, Kisan Vikas Patras, NSC, etc. (as on the date of advertisement) in the name of the petitioner or her family members. The petitioner in her application has mentioned against Item No.10.2 – Amount in Savings Bank Account as Rs.1,25,218/- and 10.3 – Fixed Deposits/NSC/Shares /MF, etc., as Rs.75,000/-. It is further observed during enquiry by the FVC Committee that the amounts against item No.10.2 was Rs.1,25,410-21 ps and against item No.10.3, it was only Rs.42,054/- totalling to Rs.1,67,464-21 ps, which is not meeting the minimum eligibility criteria and the petitioner

also did not produce any supporting document in respect of item No.10.5 towards loan eligibility as on the date of application, but the same was produced on 12.03.2011, which is after the date of application, i.e., 30.04.2010, and sought for dismissal of the writ petition.

4. Reply is filed reiterating the writ petition averments.

5. Sri K. Ananda Rao, learned counsel for the petitioner, submits that having selected the petitioner for allotment of LPG distributorship, it is not open for the respondent-Corporation to reject the same without issuing notice on the ground that the petitioner is not the resident of advertised location, i.e., Pamulapadu village. He also submits that when the application of the petitioner was submitted, he was found to be not eligible on the basis of the nativity certificate issued by the Tahsildar and later, the respondent-Corporation issued proceedings dated 16.08.2010 informing that the petitioner was qualified for draw for selection of distributorship and after the petitioner was selected, the impugned proceedings were issued stating that the candidature of the petitioner cannot be considered since she has not complied with the conditions. He also submits that when the respondent-Corporation addressed letter to the Tahsildar for verification of residence certificate of the petitioner, the Tahsildar confirmed the same stating that the petitioner is a resident of Pamulapadu village

as on 26.04.2010. He also submits that though the petitioner has shown value of Rs.2,00,000/- by showing bank deposits and LIC policy, the respondent-Corporation, without any notice, unilaterally taken Rs.42,054/-. He further submits that even the bank loan eligibility certificate produced by the petitioner was accepted by respondent No.2 and, on the very same basis again, the petitioner's candidature cannot be cancelled.

6. On the other hand, Sri O. Manohar Reddy, learned Standing Counsel for the respondent-Corporation, submits that the certificate produced by the petitioner along with the application dated 28.04.2010 shows that she is resident of Jutur village of Pamulapadu Mandal, and, as such, a letter was addressed on 27.07.2010 stating that the petitioner is ineligible and, basing on the certificate, she was allowed to participate in the draw and after she was selected, the FVC Committee found that the petitioner was not resident of Pamulapadu village as on the date of application, and, as such, the petitioner is not found ineligible. He also submits that the FVC Committee approached the LIC authorities and basing on their version, the surrender value was taken into account and it is also found that the loan eligibility certificate was not accompanying the application, as such, marks awarded basing on the assertions made in the application and, therefore, the petitioner is not found eligible.

7. Admittedly, the notification was issued on 30.03.2010 and the petitioner applied for selection of RGGLV distributorship on 28.04.2010 and as per the proceedings dated 27.07.2010, the petitioner was clearly informed that she was not found to be eligible for allotment of RGGLV distributorship, since she was a resident of Jutur village and not the resident of advertised village, i.e., Pamulapadu village.

8. Clause Nos.12.1, 12.2, 12.9 and 12.10 of the Brochure on Selection of Rajiv Gandhi Gramin LPG Vitrak (RGGLV) read as follows:

"12.1 A Committee consisting of two Officers of the concerned Oil Company will do scrutiny of the application and award marks to the applicants based on the information given in the application.

12.2 Selection will be done by draw of lot out of all eligible applicants securing minimum qualifying marks. Minimum qualifying marks is 60% for locations reserved under SC/ST category and minimum 80% marks for all other category locations.

12.9 Field verification will be carried out for the selected candidate and if the information given in the application by the applicant is found to be correct, Letter of Intent will be issued to the selected candidate.

12.10 In case of rejection of selected candidate due to findings in the Field Investigation or if selected candidate is unable to develop facilities for Rajiv Gandhi Gramin LPG Vitrak within the specified time, then his candidature will be cancelled and draw will be held again from the remaining qualified eligible candidates to select the next candidate following the procedure as mentioned above in para 12.3 to 12.6."

9. A reading of the above guidelines goes to show that after the FVC Committee completed scrutiny of the application and awarded marks to the applicants based on the information given in the application, selection will be done by draw of lot out of all eligible applicants. In the present case, the FVC Committee has verified and found that the petitioner was not the resident of Pamulapadu village basing on the certificates filed by the petitioner. Admittedly, the certificate was produced on 28.04.2010 on the date of application and it was found that the petitioner was not the resident of Pamulapadu. The FVC Committee also approached the LIC authorities and obtained surrender value of the LIC policies and came to the conclusion that the petitioner has not fulfilled the condition No.10. It is also found that loan eligibility certificate is also not enclosed with the application and the same is obtained at later point of time, but as per the guidelines, the same has to be filed along with the application. Basing on the same, ten (10) marks awarded to the petitioner were reduced and the petitioner got 79% marks, but the minimum qualifying marks for open category is 80% and, hence, the petitioner was disqualified. The petitioner has participated in the selection process and the verification is done after selection is over.

10. From the foregoing facts, it cannot be said that the rejection of the candidature of the petitioner by way of impugned proceedings dated 09.04.2011 is erroneous. It

was observed in the impugned proceedings that in the affidavits of the petitioner in

Appendix A, Appendix B, Appendix C submitted along with her application, she had affirmed and declared before the advocate and notary on 28.04.2010 (date of application) that she is residing at Jutur village, Pamulapadu Mandal and basing on the observations of FVC Committee, the impugned order is passed. Admittedly, the petitioner has not filed any loan eligibility certificate at the time of submission of application. In view of the same, this Court cannot sit in appeal over the proceedings issued by respondents cancelling candidature of petitioner for selection of LPG distributor by exercising power of judicial review under Article 226 of the Constitution of India. In view of the same, I do not see any error in the impugned order.

11. Accordingly, this Writ Petition is dismissed. As a sequel thereto, miscellaneous petitions, if any pending in this petition, shall stand closed. There shall be no order as to costs.

A. RAJASHEKER REDDY,

J

24.02.2016

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