

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders reserved on : 27.07.2017
Orders pronounced on : 09.08.2017
CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.30693 of 2012
and
M.P.Nos.1 of 2012 and 1 of 2013

Sri.D.Azhagiri

.. Petitioner

Vs.

1. The Union of India,
Represented by Principal Secretary,
Ministry of Petroleum and Gas,
New Delhi.
2. The Managing Director,
Indian Oil Corporation Limited,
536, Anna Salai,
Teynampet, Chennai.
3. The Senior Area Manager,
Indian Oil Corporation Limited,
Indane Area Office,
"Triveni" IIInd Floor, B-35, Shastri Road,
Thillai Nagar, Trichy-620 018.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to quash the impugned notice, dated 19.10.2012 issued by the third respondent.

For Petitioner : Mr.Adi Narayanan

For Respondents : Mr.T.L.Thirumalaisamy, CGSC for R-1
Mr.Abdul Saleem for RR-2 and 3

ORDER

The petitioner has come forward with the above Writ Petition seeking to issue a Writ of Certiorari to quash the impugned notice, dated 19.10.2012 issued by the third respondent.

2. It is the case of the petitioner that he is residing in the vicinity of Kurinjipadi. The third respondent called for applications for award of Distributorship of Rajiv Gandhi Gramin LPG Vitarak (RGGLV) in Kurinjipadi among various other

villages/Town Panchayats through notification published in newspaper, dated 28.12.2011. According to the petitioner, he is a permanent resident of Kurinjiipadi and carrying on his agency activities within the area of Kurinjiipadi. According to him, he is eligible to apply for allotment of Distributorship of the said RGGLV in Kurinjiipadi. He applied for allotment with necessary particulars, duly complying with all the requirements for consideration of allotment. His land for the purpose of the proposed godown is situated in Kanjamanathanpettai, Kurinjiipadi, which comes under Kurinjiipadi as advertised by the third respondent in Column No.12 in Table-B of the advertisement. The third respondent duly acknowledged the application of the petitioner on 17.02.2012 and allotted Serial No.TRAO/KURNJ/09.

3. It is further stated by the petitioner that the third respondent, by letter dated 07.03.2012, asked the petitioner to furnish further documents. After scrutiny of the documents, the petitioner's application was accepted and being satisfied with the same, the third respondent issued a letter of qualification for draw, vide communication dated 11.07.2012. The petitioner and others participated in the draw of lots/selection for award of RGGLV Distributorship on 07.08.2012 at Cuddalore Collectorate, Cuddalore. The third respondent has confirmed the selection of the petitioner being successful and issued public notice by publishing the same in the Tamil local daily Dinamalar. The issuance of the Notification finally concludes the selection process and it is binding the third respondent in awarding Distributorship for Kurinjiipadi area.

4. It is the further case of the petitioner that he made all arrangements to commence the activities of the agency/Distributorship. On 19.10.2012, the petitioner received a communication from the third respondent that he was ineligible for the selection process, as his proposed land for the godown is not situated in the advertised locations as per the initial advertisement. According to the petitioner, having scrutinised the entire records, and having found that the petitioner is eligible for the Distributorship, and thereafter allowing him to participate in the draw of lots for selection and having succeeded in the process of selection, which has also been published in the newspaper, depriving the petitioner the benefit of Distributorship on the ground that the place of Distributorship given by the petitioner does not fall within the said Kurinjiipadi village, is not correct. The petitioner has also produced a copy of the Certificate issued by the Tahsildar of Kurinjiipadi, dated 23.08.2016, in K.Dis(A2)/4454/16, certifying that 0.16 cent of R.S.No.52/7 (0.13.0 ares) of Kanjamanathanpettai Revenue Village, owned by A.Dhanalakshmi, W/o D.Azhagiri is coming under Kurinjiipadi Panchayat Union and Kurinjiipadi Firka of Kurinjiipadi Taluk, Cuddalore District, Tamil Nadu.

5. Hence, it is submitted by the petitioner that the action of the third respondent in disqualifying the petitioner is arbitrary, as no opportunity of hearing was given to him to put forth his contentions before the cancellation. Learned counsel for the petitioner relied on a decision of the Orissa High Court in W.P.(C).No.16039 of 2010, in the case of Prasanta Kumar Panigrahi Vs. Union of India and others, dated 06.09.2011, wherein similar issue cropped up and the Distributorship therein was issued in favour of the petitioner therein for Dharakote Village, which was subsequently cancelled on the ground that the petitioner therein did not submit the details of the land along with the supporting documents as required under the guidelines for RGGLV. The Orissa High Court held that the petitioner therein owned a suitable land at Khamar Paitari, which is one of the three villages, which comes under Dharakote as established by the petitioner therein through Annexure and that the action of the respondent in depriving the benefit of Distributorship was wrong and allowed the Writ Petition.

6. Per contra, learned counsel for the respondents 2 and 3 submitted that it is true that the petitioner was selected and that he is one of the candidates who applied for Distributorship. His selection does not confer any right of allotment. Admittedly, there is no allotment of Distributorship issued to the petitioner, as he does not possess the land in the required place as advertised in the Notification issued by the respondents 2 and 3/IOCL.

7. Heard both sides and perused the materials available on record.

8. The reliance was placed by the learned counsel for the petitioner on the Orissa High Court judgment is not applicable to the facts and circumstances of the present case, as in that case, in the advertisement, it was specifically indicated that the candidate should have a piece of land in Dharakote Village and the said Dharakote Village consists of three villages. In the case on hand, though Kurinjipadi is a Town Panchayat, it consists of several villages and the Distributorship is sought for only from the persons who are residing in Kurinjipadi and not from any other place. By producing a Certificate of the Tahsildar of the year 2016, as indicated supra, the petitioner cannot contend that he is entitled for the Distributorship and more particularly, he is stating that the village falls under Kurinjipadi and he should be allotted the Distributorship. That apart, most of the arguments made by the learned counsel for the petitioner, are not found in the pleadings taken by the petitioner.

9. As rightly pointed out by the learned counsel for the respondents 2 and 3, the fact that the petitioner was selected, will not confer him any right, as the allotment was not given to him. The petitioner will have to satisfy the conditions for Distributorship in the advertisement and that the property should be situated in Kurinjipadi and he cannot now rely on the Certificate issued by the Tahsildar to show that the property in neighbouring village also falls under Kurinjipadi. This Court reiterates that the advertisement is only meant for Distributorship in Kurinjipadi and that the property should be situated in Kurinjipadi, even though the petitioner has pointed out that as per the Certificate of the Tahsildar, the land may be owned in any one of the Township of Kurinjipadi. From the advertisement, it is clear that there is a specific mention about the Kurinjipadi and not of any other area. As the land in question of the petitioner is not specifically situated in a place where the Distributorship is required, i.e. in Kurinjipadi and it is situated in one of the villages of Kurinjipadi Town Panchayat, it cannot be a ground for the petitioner to seek Distributorship. There is a specific mention of possessing the land in Kurinjipadi.

10. The learned counsel for the petitioner submitted that the petitioner has already mentioned regarding his properties in the application form and further stated that the petitioner was not given an opportunity of producing the details of the property which is situated in Kurinjipadi. This Court posed a question upon the learned counsel for the petitioner regarding the date of purchase of the property, for which the learned counsel for the petitioner replied that only after filing the application before the third respondent, the property has been purchased. This reveals that on the date of filing of the application, the property was not available with the petitioner.

11. The learned counsel for the petitioner relied on the decision of the Orissa High Court in the case of Prasantha Kumar Panigrahi Vs. Union of India and others, in W.P.(C) No.16039 of 2010, dated 06.09.2011. This Court observes that the petitioner in the above cited case, was given another opportunity to produce the details of any other property situated in that area. But, in this writ petition, the petitioner does not possess any property with him on the date of filing of the application and hence, the said decision of the Orissa High Court is distinguishable considering the above facts. If such a contention of the petitioner is allowed, it will lead to opening the Pandora's box by which all the applicants will be knocking at the doors of the Courts for one or other reason, stalling the entire process of the respondents. Hence, this writ petition has to be dismissed.

12. Further, this Court, sitting under Article 226 of the Constitution of India, cannot expand the jurisdiction to enable the petitioner to get the allotment in Kurinjipadi, when admittedly, the place in question owned by the petitioner/his wife does not fall within the specific Kurinjipadi area, but the petitioner's land is coming under the other village in Kurinjipadi.

13. Hence, for the reasons stated above, I find no reason to interfere with the impugned order. The interim order already granted is vacated. The Writ Petition is dismissed. No costs. The Miscellaneous Petitions are closed.

-s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

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Copy to

1. The Union of India,
Represented by Principal Secretary,
Ministry of Petroleum and Gas,
New Delhi.
2. The Managing Director,
Indian Oil Corporation Limited,
536, Anna Salai,
Teynampet, Chennai.
3. The Senior Area Manager,
Indian Oil Corporation Limited,
Indane Area Office,
"Triveni" IInd Floor, B-35, Shastri Road,
Thillai Nagar, Trichy-620 018.

+1 CC to Mr.T.L. Thirumalaisamy, advocate sr 57329
+1 Cc to Mr.Adi Narayanan, sr 57417
+1 Cc to Abdul Saleem, sr 57602.

W.P.No.30693 of 2012

SP(01/09/2017)