

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.15625 of 2013

N.Kalaivasan

... Petitioner

vs.

1. The Executive Director,
Bharat Petroleum Corporation Limited,
"Bharat Bhavan",
Nos.4 & 6, Currimbhoi Road,
Ballard Estate, P.B. No.688,
Mumbai 400 001.

2. The Territory Manager - LPG, Chennai,
Bharat Petroleum Corporation Limited,
Chennai LPG Bottling Plant,
J1-J6, SIPCOT Industrial Complex,
New Gummidipoondi - 601 201.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus, to call for the records of the 2nd respondent herein in Ref.No.CHKP:09, dated 20.05.2013 and quash the same and direct the 2nd respondent herein to issue letter of intent to the petitioner.

For Petitioner : Mr.S.V.Karthikeyan

For Respondents : Mr.O.R.Santhanakrishnan

सतयमेव जयते
O R D E R

The petitioner has come up with this Writ Petition seeking to quash the proceedings of the 2nd respondent herein vide Ref.No.CHKP:09, dated 20.05.2013 and for a direction to the 2nd respondent herein to issue letter of intent to him.

2.According to the petitioner, he applied for LPG Distributorship at Agaram/Kathirampatti/Thathanavalasai/Selandhampalli in Vellore District along with necessary documents on 30.01.2013. Along with the petitioner, about 13 persons have applied for the said dealership and after verification of the documents and applications, seven persons including the petitioner were

shortlisted as eligible candidates. Thereafter, the 2nd respondent by a call letter dated 03.02.2013, called upon the petitioner and six other persons to appear before him on 23.02.2013 at 2.00 p.m. On 23.02.2013, the petitioner appeared before the 2nd respondent herein along with necessary particulars and documents and in the presence of the 2nd respondent and other middle men, a draw was held for the selection of successful candidate among them. The entire draw process was videographed and on the same day, draw for two other distributors was also held and at the end, the petitioner was announced as successful selected candidate for LPG Distribution at Agaram/Kathirampatti/Thathanavalasai/Selandhampalli in Vellore District. But, no order or communication in writing was issued to the petitioner and he was intimated that authorities for field verification would arrive at the spot of Distribution Centre after notice.

3. Accordingly, on 20.03.2013, the authorities visited the spot for field verification and the petitioner provided all the requisite particulars sought by them. The said field verification was completed on the same day and the petitioner was intimated that he will receive further communication from the 2nd respondent regarding his letter of intent. But, the petitioner was shocked to hear that the other six persons who participated in the draw along with him on 23.02.2013 and who were not selected in the draw, received communication from the 2nd respondent asking them to attend the draw for selection of Distributor for the very same place, where the petitioner was selected. Though the petitioner attempted to contact the 2nd respondent in this regard, he was not allowed to do so.

4. Hence, the petitioner filed a Writ Petition in W.P.No.14337 of 2013 seeking the relief of mandamus to forbear the 2nd respondent herein from conducting any draw for the selection of Distributor at Agaram/Kathirampatti/Thathanavalasai/Selandhampalli in Vellore District scheduled to be held on 27.05.2013 in the office of the 2nd respondent herein and for a direction to the 2nd respondent herein to issue letter of intent to him in pursuance of the selection held on 23.02.2013.

5. Thereafter, the petitioner received the original order dated 20.05.2013 rejecting his candidature on three grounds viz. (i) the land offered for construction of LPG godown has been actually registered on 05.03.2012, but, it was mentioned as 12.01.2012 in the application, (ii) the available balance in Savings Bank Account was only Rs.4,689/- as on the date of application, whereas, it was mentioned as Rs.2,01,689/- in the application and (iii) the valuation of the property has not been done by a Government approved valuer. Challenging the said

order, the petitioner is before this Court by way of the present Writ Petition.

6. Heard the learned counsel on either side and perused the material documents available on record.

7. As regards the first ground of rejection of his candidature, it is the case of the petitioner that the land offered for the construction of LPG Godown was purchased by him and after payment of amount, possession of the property was handed over to him as per the Sale Agreement dated 12.01.2012 and since the land was in his absolute possession and occupation, he has mentioned the date 12.01.2012 towards the column 'date of registration of sale deed/gift/date of mutation'. As regards the second ground of rejection, the petitioner has stated that on 30.01.2012, a sum of Rs.2,01,689/- was available in his account on the date of application and on the same day, only at the request of the Bank officials, Rs.2,00,000/- was converted as a Term Deposit with the same Bank and the said deposit is available as on date. Insofar as the third ground pertaining to the valuation of the properties is concerned, the petitioner has stated that a valuation Report was submitted by a Chartered Engineer during field verification and the officials accepted the same without any query. According to the petitioner, had the officials demanded the valuation report from an approved Chartered Engineer, he would have submitted the same.

8. But, it is the case of the respondents that the impugned letter of rejection of candidature has been sent to the petitioner only as per the guidelines enumerated in the Manual and that the action of the 2nd respondent is not arbitrary.

9. For better appreciation of the case, relevant guidelines from the Manual for selection of Rajiv Gandhi Gramin LPG Vitrak (RGGLV) are extracted herein:

"6. ...

(vi) Have minimum total amount of Rs.2 lakhs put together from Saving accounts in Bank (as on date of application), free and un-encumbered fixed deposits in scheduled banks, Kisan Vikas Patra, NSC, bonds, any other investment, etc in the name of self or family members of the 'Family Unit' as defined above. (In case of RGGLV locations reserved under 'SC/ST' category, applicants with less than Rs.2 lakhs are also eligible to apply). For evaluation purpose, marks will be awarded to applicants of all categories based on the amount mentioned in the application.

(vii). Own a suitable land (Plot) of minimum 20 metre x 24 metre in dimension at the advertised RGGLV location for construction of LPG cylinder storage Godown.

Own means having clear ownership title of the property in the name of the applicant/family member of the 'Family unit' as defined in multiple dealership/distributorship norm. In case of ownership/co-ownership by family member, consent letter from the family member will be required."

10. This Court is of the view that the conditions stipulated in the Manual have got to be read as a whole and it cannot be read in a truncated manner. The question of owning the land or acquiring the land by means of Sale Deed dated 05.03.2012 cannot give right to the petitioner for selecting him as a Distributor, when the conditions clearly state that he must own the property on the given date. Even assuming for the sake of argument that the petitioner's contention with regard to the other two grounds is going to be accepted, when the petitioner has not satisfied the condition, he cannot seek Distributorship on the ground that there was only a Sale Agreement on 12.01.2012 and that the land devolved upon him by means of a Sale Deed, which will be completely in violation of the norms fixed by the 1st respondent. If the contention of the petitioner is accepted, the Court will have to enter into the administrative aspect of the respondent Management and impose the Court's views in the place of the policy decision taken by the respondents.

Hence, I find no reason to interfere with the impugned order passed by the 1st respondent herein. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected M.P.No.1 of 2013 is closed.

Sd/-
Assistant Registrar(CO)

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Sub Assistant Registrar

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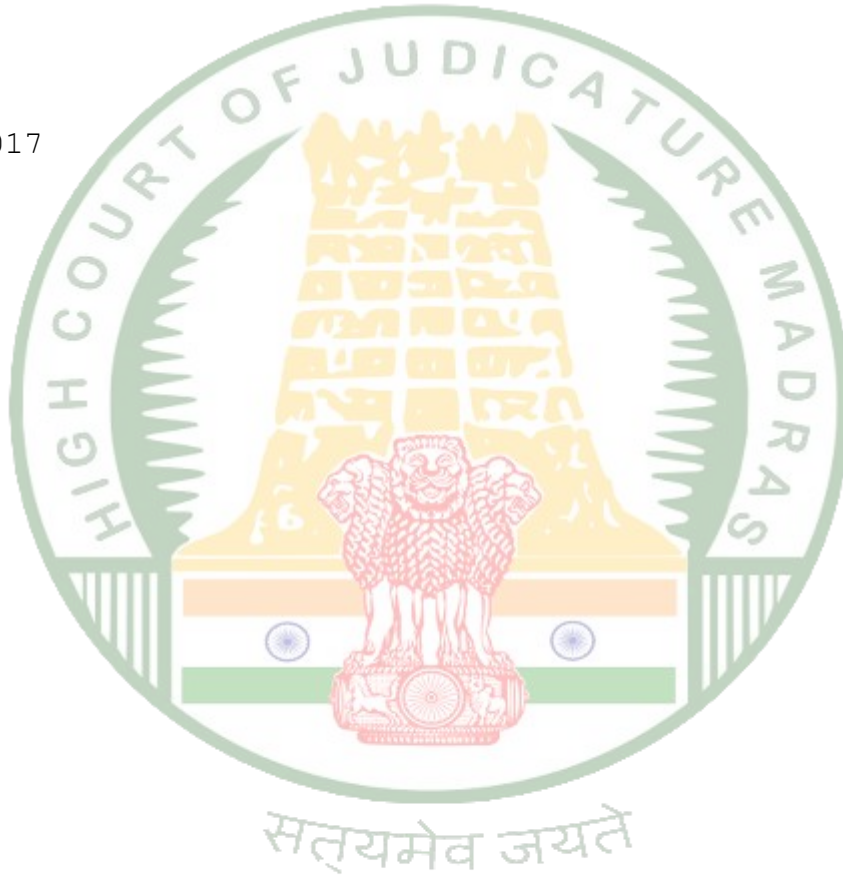
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+1 cc to M/s.S.V.Karthikeyan Advocate sr 52230

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