



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

and

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

W.A. (MD) Nos. 662 and 663 of 2015

and

M.P. (MD) .No.1 of 2015 in W.A. (MD) .No.662 of 2015

M.Panchavarnam

.. Appellant in both the appeals/
Writ petitioner

Vs.

1.The Indian Oil Corporation Limited,
rep. by its Executive Director,
Tamil Nadu State Office,
No.139, Nungambakkam High Road,
Chennai - 600 034.

2.The Divisional Retail Sales Manager,
The Indian Oil Corporation Ltd.,
Madurai Division Office,
2nd Cross Road, Chokkikulam,
Madurai - 625 002.

3.The Dealer Selection Committee,
The Indian Oil Corporation Ltd.,
2nd Cross Road, Chokkikulam,
Madurai - 625 002.

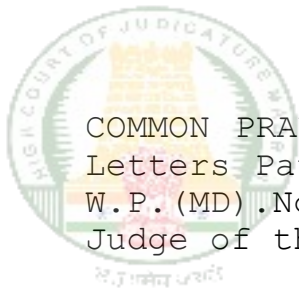
4.The Customer Service Cell,
Madurai Division Office,
The Indian Oil Corporation Ltd.,
2nd Cross Road, Chokkikulam,
Madurai - 625 002.

5.P.Jansi Rani

.. Respondents 1 to 5 in
both the appeals/
Respondents 1 to 5 in
both the writ petitions

6.The District Revenue Officer,
Bodinayakanoor,
Theni District.

.. 6th respondent in
W.A. (MD) .No.662/2015/
6th respondent in
W.P. (MD) .No.10228/2013



COMMON PRAYER: Writ Appeals have been filed under Clause 15 of the Letters Patent, against the common order dated 03.06.2015, made in W.P.(MD).Nos.10228 of 2013 and 5133 of 2013 by a learned Single Judge of this Court.

Prayer in WP(MD). 10228/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records relating to the Letter of Intent of the 2nd Respondent in 2013/IN000032/IN000001/4103/00001 dated 05.04.2013 issued to the 5th Respondent by IOC Limited in respect of its Petroleum Retail Outlet at Silamalai, Bodinaickanur Taluk, Theni District and quash the same and direct the 2nd respondent herein to issue the Letter of Intent to the Petitioner for commencement of Petroleum Retail Outlet Dealership at Silamalai Village, Bodinaickanur Taluk, Theni District.

Prayer in WP(MD). 5133/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certtiorarified Mandamus, calling for the records relating to the order dated 18.03.2013 in ref. No. TN/R/Writ Petition 12727 of the 1st Respondent herein and quash the same and consequently declare the Petitioner as Rank NO. 1 for the Petroleum OUTlet Dealership at Silaimalai, Theni District Location and direct the Respondents herein to grant Petroleum Outlet Dealership for the Petroleum Outlet Dealership at Silamalai, Theni District in favour of the petitioner and pass such further or other orders.

For appellant in
both the appeals

: Mr.AR.L.Sundaresan,
Senior Counsel for
Mrs.A.L.Ganthimathi

For respondents 1 to 4 in
both the appeals

: Mr.K.Muralidharan

For 5th respondent in
both the appeals

: Mr.M.Vallinayagam,
Senior Counsel for
S.Nateshraaja

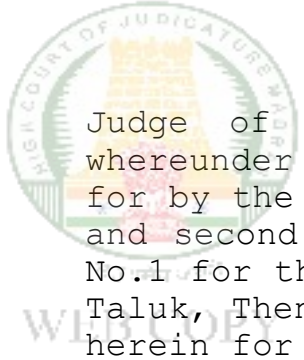
For 6th respondent in
W.A. (MD) .No.662/2015

: Mr.N.S.Karthikeyan,
Additional Government Pleader

COMMON JUDGMENT

(Judgment of the Court was delivered by **R.SUBBIAH, J.**)

The appellant herein is the writ petitioner in both the writ petitions viz., W.P.(MD).Nos.5133 and 10228 of 2013. He has filed these appeals as against the common order passed by a learned Single



Judge of this Court in the said writ petitions, whereby and whereunder the learned Single Judge has negatived the relief sought for by the appellant to quash the impugned order passed by the first and second respondents herein and to declare the appellant as Rank No.1 for the Petroleum Outlet Dealership at Silamalai, Bodinaickanur Taluk, Theni District and to issue letter of intent to the appellant herein for the commencement of Petroleum Retail Outlet Dealership at Silamalai Village, Bodinaickanur Taluk, Theni District.

2. Since both the appeals have arisen out of the one and the same order, both the appeals heard together and disposed of by way of this common judgment.

3. The brief facts which are necessary to dispose of these appeals are as follows;

(a) The first respondent herein had invited the applications for grant of Petroleum Retail Outlet dealership for Petroleum products supplied by the first respondent for various locations including Silaimalai Village, Bodinaickanur Taluk, Theni District, in the Hindu newspaper on 20.03.2010. The said location was reserved for women. The appellant had applied for the same in an prescribed form on 23.11.2010. After scrutinizing the application, the appellant was called for interview by the third respondent viz., Dealership Selection Committee on 15.09.2011. Apart from the appellant, the fifth respondent herein and others attended in the said interview. The third respondent published the results of the selection, in which the appellant was awarded 89.97 marks out of 100 marks and ranked as No.2 and the fifth respondent herein was awarded 90.31 marks out of 100 marks and ranked as No.1. The difference in marks between the appellant and the fifth respondent was 0.34 marks.

(b) According to the appellant, the marks awarded to the fifth respondent were not in accordance with the parameters of the selection process and hence, she has submitted a written objection to the first respondent on 06.10.2011. As there was no response to the same, the appellant has filed W.P.(MD).No.12727 of 2011 before this Court seeking to declare the selection of the fifth respondent as arbitrary and illegal. This Court, by order dated 13.12.2012, disposed of the said writ petition directing the first respondent to consider the objections submitted by the appellant and decide the matter as per law. But, the first respondent, by order dated 05.04.2013, rejected the objection raised by the appellant. Challenging the same, the appellant has filed W.P.(MD).No.5133 of 2013. During the pendency of the said writ petition, the second respondent issued a letter of intent to the fifth respondent on 05.04.2013. Pursuant to the same, the fifth respondent herein has applied for No Objection Certificate from the 6th respondent viz., District Revenue Officer, Theni. Hence, the appellant has submitted a written objection to the 6th respondent.



(c) Subsequently, the appellant came to know that the affidavits alleged to have been submitted by three persons in favour of the fifth respondent for consumption of diesel were fabricated by the fifth respondent for the purpose of boosting up her claim for marks. In order to substantiate the said contention, the appellant got certain documents under the Right to Information Act, by which, the appellant came to know that there is no such addresses and no such persons. As per clause 19.2 of the Brochure of the Corporation, if any false information is furnished by any applicant, the allotment will be cancelled and dealership will be terminated in case it is commissioned. In the letter of intent dated 05.04.2013 also, such a condition is incorporated in clause 10. Though the appellant brought the said forgery through his letter dated 29.05.2013, no action was taken by IOC Ltd., to cancel the said letter of intent issued to the fifth respondent. Hence, the appellant has filed another writ petition in W.P.(MD).No.10228 of 2013 challenging the letter of intent of the 2nd respondent dated 05.04.2013 issued to the 5th respondent and also for a direction to the 2nd respondent herein to issue the Letter of Intent to the appellant for commencement of Petroleum retail outlet dealership at Silamalai Village, Bodinayaickanur Taluk, Theni District.

d) The learned Single Judge, after hearing both sides, dismissed both the writ petitions holding that the respondent Corporation was right in issuing the letter of intent to the fifth respondent in furtherance of selection process and that over the proceedings and decisions taken in the administrative matters, the scope of judicial review is limited.

3. When the matter is taken up for consideration, the learned senior counsel appearing for the appellant submitted that the difference of marks between the appellant and the fifth respondent is only 0.34 marks. The fifth respondent has produced three affidavits for the purpose of boosting up her claim for marks before the 2nd respondent. The appellant, on verification, came to know that the said affidavits have been fabricated by the fifth respondent with all false and incorrect factual details and hence, the fifth respondent was not entitled to any mark of tied-up volume and the further selection of the fifth respondent deserves to be cancelled forthwith on account of production of such false affidavits as per clause 13.1.1. (ii)(d) of the Selection Brochure r/w Guidelines issued for award of marks. He would further submit that Clause 19.2 of the Selection Brochure also states that "if any information furnished by the applicant is found to be false at any point of time before or after appointment as a dealer, the allotment will be cancelled forthwith and the dealership terminated in case commissioned." Though the appellant has submitted a representation dated 29.05.2013 with regard to forgery committed by the fifth respondent, the second respondent has failed to take any action. Since the fifth respondent herein by committing fraud, has obtained the Letter of Intent, the same deserves to be quashed. But, the learned Single Judge has erroneously rejected the said submission of



the learned counsel for the appellant. Thus, he prayed for setting aside the impugned orders.

4. The learned senior counsel appearing for the respondents submitted that the appellant has been giving complaint after complaint for stalling the business of the fifth respondent. The earlier complaint given by the appellant, as per the direction of this Court in W.P.(MD).No.12727 of 2011, considered by the Corporation and rejected holding that there is no truth. Now, another new set of allegations are brought out by the appellant. As per clause 18, "an aggrieved person may send his / her complaint to IOC at the address of the customer service cell displayed at the nearest retail outlet of IOC. Complaints can also be lodged on the website of IOC. Complaints against dealer selection received after 30 days from the date of declaration of the result of the interview will not be entertained under any circumstances." Thus, the complaint lodged by the appellant is barred by time as per clause 18 of the Selection Brochure. The learned Single Judge, after analysing entire issue has rightly rejected the claim of the appellant. Thus, he prayed for dismissal of the appeals.

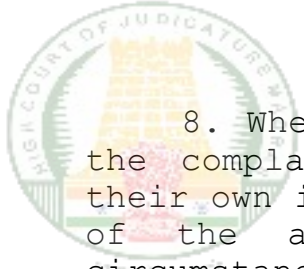
5. By way of reply, the learned senior counsel for the appellant submitted that as per clause 19.2 of the Brochure, the officials of IOC have power to cancel the allotment and terminate the dealership, if any information furnished by the applicant is found to be false at any point of time before or after appointment as a dealer. When that being the position, the complaint of the appellant can be entertained and enquired into by the officials of IOC for their own interest and not at the interest of the appellant. In fact, the appellant has earlier raised this issue without any material and now he is having relevant documents to substantiate his submission. If the same was considered by the second respondent, they would have definitely terminated the dealership of the fifth respondent. But, they failed to do so. Thus, he again prayed for quashment of the impugned orders.

6. Keeping the submissions made on either side, we have carefully gone through the entire materials available on record.

7. Irrespective of the submissions made on either side, this Court is of the view that admittedly, the IOC has power to cancel the dealership in case of furnishing of false information by the applicant under clause 19.2 of the Brochure which reads as follows:

"19.2 Furnishing of 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 dealer, the allotment will be cancelled forthwith and dealership terminated in case commissioned."



8. When that being the position, they can very well look into the complaint of the appellant against the fifth respondent for their own interest and not at the interest of the appellant. In view of the above and also considering the peculiar facts and circumstances of the case, this Court is inclined to pass the following orders:

The appellant is directed to send a copy of the complaint along with the documents obtained by him to the 2nd respondent within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the second respondent is directed to consider the said complaint, conduct enquiry and in case, during the course of enquiry if the second respondent has come to the conclusion that the allegation of the appellant as against the fifth respondent is genuine, pass appropriate order on merits and in accordance with law, after giving sufficient opportunity to the fifth respondent, within a period of eight weeks thereafter.

9. Both the writ appeals are disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To

The District Revenue Officer,
Bodinayakanoor,
Theni District.
GCG
PSM/RR/SAR4/19.04.2017/6P/2C

Writ Appeal (MD) Nos.662 & 663 of 2015
21.02.2017