



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 19.01.2017

Delivered on : 03.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.A. (MD) No.1292 of 2016

The Chief Area Manager,
Indian Oil Corporation,
Indane Area Office,
B-35, 2nd Floor,
Shastri Road, Thillai Nagar,
Trichy-620 018.

: Appellant/Respondent

Vs.

V.Dhanasekaran

: Respondent/Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent against the order of a learned Single Judge of this Court dated 18.03.2015, made in W.P. (MD) No.9878 of 2012.

Prayer in WP(MD). 9878/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, by calling for the proceedings of the respondent in its CATEGORY : CC:RGGLV PLAN: 2011 dated 03.07.2012 and quash the same in so far as the petitioner is concerned and consequently direct the respondent to consider the petitioner for grant of dealership in Avalurpet Village.

For Appellant

: Mr.M.Sridhar

For Respondent

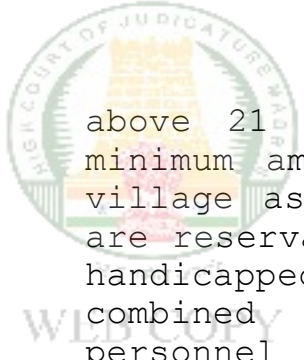
: Mr.V.Vijay Shankar

JUDGMENT

This Writ Appeal is directed against the order of Writ Court dated 18.03.2015, made in W.P. (MD) No.9878 of 2012.

2. The brief facts which are necessary for disposal of the Writ Appeal are as follows:

The respondent is a Post-Graduate in M.A. He hails from the Village of Avalurpet and he is possessing large extent of lands in the said Village. In the month of December, 2011, the appellant called for applications from persons for selecting LPG Distributors for the Scheme called 'Rajiv Gandhi Gramin LPG Vitrak (RGGLV)'. The eligibility criteria to apply under the said Scheme is that the applicant should have passed X standard and should be



above 21 years of age. Further, such applicant should have a minimum amount in the savings bank and also own a plot in the village as advertised with a dimension of 20 x 24 meters. There are reservations for different categories such as SC/ST physically handicapped, outstanding sports person and a category called combined category. The combined category includes defence personnel or para military/police/Government personnel category. The advertisement called for applications is for about 131 villages. The respondent's native village of Avalurpet falls in Sl.No.105 of the said advertisement under the combined category. The respondent applied for the combined category in Avalurpet Village enclosing all necessary certificates and declaration from the banks etc. With regard to the immovable properties, the respondent had stated that he was in possession of 2.41 acres of land in Survey No.5/2A in Avalurpet Village. Educational Certificates were also enclosed. The affidavit duly notarized was also sent along with the application Form. While the respondent was hopeful that he would be considered for interview along with the eligible candidates, he received a letter dated 07.03.2012 from the respondent, in which, it was informed that the respondent does not have land for a godown with required dimension in his name. Further, in the said letter, it has been stated that the respondent can submit his representation, if any, before 31.03.2012. Accordingly, the respondent sent a letter dated 28.03.2012 enclosing the copies of the land documents including the settlement deed executed by his mother to show that the respondent is owning a land in Avalurpet Village. After sending the representation, the respondent was under the fond hope that he would be called for an interview along with the other eligible candidates. But, no communication was received by the respondent. While so, the appellant issued a list of applicants not found eligible in Avalurpet Village. In the said list containing 5 names, the respondent's name finds a place at Serial No.5. Therefore, the respondent herein has filed the Writ Petition to quash the proceedings of the appellant in its CATEGORY:CC:RGGLV PLAN:2011, dated 07.03.2012 insofar as the respondent is concerned and consequently, direct the appellant to consider the respondent for grant of dealership in Avalurpet Village.

3. Since the appellant has stated in the impugned order that the candidature of the respondent has not been found to be eligible, since he does not have land for godown with required dimensions in the advertised location in his name, before the learned Single Judge, the respondent has produced a settlement deed executed by his mother in his favour to show that he is holding the required dimension of land in the advertised location. The learned Single Judge, by considering the said settlement deed, has set aside the impugned order and directed the appellant herein to consider the respondent for an interview and consider his application for dealership on merits, if he is otherwise eligible and pass orders in accordance with law. Aggrieved over the same,

the present Writ Appeal has been filed by the Corporation.

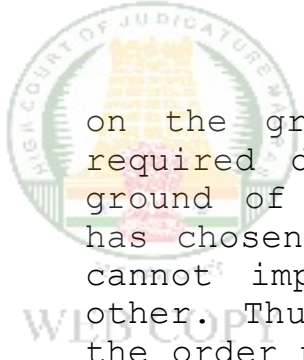
4. It is the submission of the learned counsel for the appellant that as per Clause 5(II) of the Brochure, a candidate applying under category Paramilitary, police including persons having served in BSF, CRPF, CISF, ITBP, Railway Protection Force, Special Reserved Police, Special Armed Police, Coast Guards, Assam Rifles, etc., should attach a copy of relevant certificate from the concerned Organization/Government Department signed by the Head of the Office or an Officer not below the rank of Under Secretary to the Government. But, in the case on hand, the respondent has not produced PMP Certificate issued by the competent authority. Yet another reason for rejection is that since the respondent does not have land for godown with required dimensions in the advertised location, his candidature was rejected. Therefore, he seeks to set aside the order of Writ Court.

5. Countering the submission made by the learned counsel for the appellant, the learned counsel for the respondent submits that the reasons assigned by the Corporation for rejecting the candidature of the respondent for grant of LPG Dealership are totally erroneous. One of the reasons assigned by the appellant is that the respondent does not have land for godown with required dimensions in the advertised location. The said reason assigned by the appellant is factually incorrect. In this regard, the learned counsel has invited the attention of this Court to the settlement deed executed by the mother of the respondent to show that the respondent is owning a land in Survey No.5/2A in Avalurpet Village i.e., in the advertised location. In fact, the learned Single Judge, by considering the settlement deed executed by the mother of the respondent in his favour, has only directed the appellant to call the respondent for an interview. Thus, no infirmity could be found with the said finding. In this regard, the learned counsel for the respondent, by relying upon an unreported judgment of Punjab-Haryana High Court in *Simran Gheer vs. Union of India and Others* in L.P.A.No.1520 of 2011 and another judgment of Patna High Court in *Deva Nand Singh vs. The Union of India & Ors* in L.P.A.No.884 of 2011, contended that the land offered by the member of the family can be taken into consideration.

6. In respect of the other ground, viz., the respondent has not produced PMP Certificate from the competent authority, it is submitted by the learned counsel for the respondent that the respondent's father is a Government employee working in Education Department. He died in harness in the year 1995. Hence, he applied under the Government Personnel Category and obtained the Certificate from the District Educational Officer, Tindivanam.

<https://hcservices.ecourts.gov.in/hcservices/>

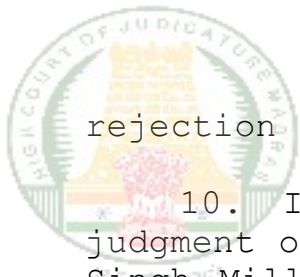
7. Adding further, the learned counsel for the respondent submits that the candidature of the respondent was rejected only



on the ground that he does not have a land for godown with required dimensions in the advertised location and not on the ground of non-production of PMP Certificate. When the appellant has chosen to reject the candidature of the respondent, now they cannot improve their case by supplementing one reason or the other. Thus, the learned counsel for the respondent submits that the order passed by the learned Single Judge is in accordance with law and the same need not be interfered with. Thus, he prays for the dismissal of the Writ Appeal.

8. Keeping the submissions made on either side, we have carefully gone through the entire materials available on record. As contended by the learned counsel for the respondent, the appellant has rejected the candidature of the respondent for grant of LPG dealership mainly on the ground that the respondent does not have a land for godown with required dimensions in the advertised location. But the settlement deed produced by the respondent dated 20.12.2012 would show that he is owning a land in the advertised location in Survey No.5/2A. In fact, the learned Single Judge, by perusing the said settlement deed dated 20.12.2012, directed the appellant herein to call the respondent for an interview and consider his application for dealership on merits, if he is otherwise eligible. The learned Single Judge has not given any positive direction, but, on the other hand, he has given only a direction to consider his candidature based on the settlement deed dated 20.12.2012. At this juncture, it is appropriate to refer to the judgment relied upon by the respondent in *Simran Gheer vs. Union of India and Others* in L.P.A.No.1520 of 2011, wherein, the issue was relating to the allotment of petrol pump site. In the said judgment, the Punjab-Haryana High Court has held that in case the land is owned by the applicant or members of family unit jointly with third person is required to qualify for marks. In *Deva Nand Singh vs. The Union of India & Ors* in L.P.A.No.884 of 2011, the Patna High Court has held that there is no illegality in selecting the private respondent therein based on the affidavit executed by the father and brother of the private respondent that they will have no objection in allotting the land in question exclusively to the share of the private respondent, in case he was selected for dealership. Therefore, absolutely, we do not find any infirmity in the order of the learned Single Judge, giving a direction to the appellant to call the respondent for an interview, based on the settlement deed executed by the mother of the respondent. Hence, the same needs no interference at the hands of this Court.

9. Though the learned counsel for the appellant submitted that the candidature of the respondent was also rejected on the ground that he has not produced PMP Certificate, in our considered view, ~~the candidature of the respondent~~ was not rejected on that ground. As contended by the learned counsel for the respondent, now the appellant cannot supplement or introduce new reason in the appeal proceedings for



rejection of his candidature.

10. In this regard, a reference could be placed to the judgment of the Hon'ble Supreme Court in 1978(1) SCC 405 [Mohinder Singh Mill Vs. Chief Election Commissioner], wherein it has been held that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise.

11. Therefore, irrespective of the reason assigned by the learned counsel for the appellant, we find that the Certificate was only issued by the Head of the Department and, therefore, on that aspect also, we do not find any infirmity in the Certificate issued by the District Educational Officer.

12. Looking at any angle, we find that the proceedings of the Corporation dated 07.03.2012, is not legally sustainable and the same is liable to be set aside. Therefore, the learned Single Judge has correctly dealt with the issue and the direction given in this regard is a well considered one and the same needs no interference by this Court for the reasons as observed above.

13. In the result, the Writ Appeal is dismissed. No costs.

Sd/-

Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

TO

+1 cc to MR.M.SRIDHER, ADVOCATE, SR NO: 5956

+1 cc to MR.V.KARTHIKEYAN, ADVOCATE, SR NO: 6071

Judgment made in
W.A. (MD) No.1292 of 2016
Delivered on:
03.02.2017

SML

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