



Prayer: Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to Merit Penal, dated 25.07.20217 relating to the final recommendation for Service Providers at SWAGAT, Mela Arasaradi, Rev. District Tuticorin, State of Tamil Nadu issued by the 2 to 4 respondents and quash the same in respect of awarding marks to the 5th and 6th respondents and directing the 1st respondent to declare the petitioner herein as the Successful candidate for Service Providers at SWAGAT, Meal Arasaradi, Rev. District Tuticorin, State of Tamil Nadu.

For Petitioner : Mr.Meenakshisumdaram
Senior counsel for Mr.N.GA.Natraj
For R1 to R4 : Mr.K.Muraleedharan
For 5th respondent : Mr.K.Hemakarthiskeyan
For 6th respondent : Mr.T.A.Ebenezer

O R D E R

Indian Oil Corporation issued an advertisement for selection of service providers for their Company owned and Company operated [COCO] including for Mela Arasaradi, Tuticorin District. Out of the seven applicants, six were declared eligible and the Selection Committee has published merit panel declaring that the 5th respondent herein and the 6th respondent secured 1st and 2nd rank respectively and the petitioner scored the 3rd rank. Challenging the same, the present writ petition has been filed.

2.The merit panel is challenged mainly contending that the respondents 5 and 6 had applied for service provider licence for the locations at Sriperumbudur, Chennai and Vadipatti, Madurai respectively, where they could secure lesser marks, but the respondents 2 to 4 by adopting different yard sticks awarded excess marks to them. Hence, it is liable to be quashed.

3.It is stated in the counter filed by the Indian Oil Corporation that they did not have any information about the interview conducted in other places and they also did not know the documents and particulars furnished by the applicants in other places and for the present location, the details furnished in the application and the documents submitted by the applicants and their performance in the interview were taken into consideration for selecting the candidates and on the basis of the selection policy, they have awarded marks and there was no deviation from the selection norms and procedures.

4.It is further stated that the decision of the respondents 1 to 4 and preparation of the merit panel is in accordance with the selection procedure and that being the administrative decision cannot be subject to judicial review. Further, the petitioner cannot



invoke the writ jurisdiction, since he is an alternative remedy before the grievance cell of the first respondent.

5. Heard Mr. Meenakshi Sundaram, learned Senior counsel for the petitioner, Mr. K. Muraleedharan, learned counsel for the respondents 1 to 4, Mr. K. Hemakarthikeyan, learned counsel for the 5th respondent and Mr. T. A. Ebenezer, learned counsel for the 6th respondent and also perused the materials available on record.

6. The learned Senior counsel for the petitioner submitted that the process of selection by the respondents 2 to 4 is against law and not in accordance with the guidelines stipulated for the selection of service providers; that the merit panel issued by the respondents 2 to 4 is with mala fide intention to eliminate the petitioner and the Selection Committee awarded marks without any basis, rhyme and reason and hence, it is liable to be set aside. The learned Senior counsel by placing upon the decisions reported in **(2003)2 SCC 107** [Harbanslal Sahnia and another vs. Indian Oil Corporation Ltd.,] and **(2006)2 SCC 269** (L.K. Verma vs. HMT Ltd., and others) contended that availability of alternative remedy is not a bar to entertain the writ petition.

7. Per contra, Mr. K. Muraleedharan, learned counsel for the respondents 1 to 4 contended that the petitioner has not alleged any mala fides against the members of the Selection Committee and the respondents 1 to 4 have strictly followed the process of selection and therefore, the decision taken by the Selection Committee is not subject to judicial review. In support of his contention, the learned counsel has placed reliance on the followings decisions:-

(i) In **(2003)10 SCC 681** [K. Vinod Kumar vs. S. Palanisamy and others], the Hon'ble Apex Court held as follows:-

"11. The law is settled that over proceedings and decisions taken in administrative matters, the scope of judicial review is confined to the decision-making process and does not extend to the merits of the decision taken. No infirmity is pointed out in the proceedings of the Selection Board which may have the effect of vitiating the selection process. The capability of the appellant herein to otherwise perform as an LPG distributor is not in dispute. The High Court was not, therefore, justified in interfering with the decision of the Selection Board and the decision of BPCL to issue the letter of allotment to the appellant herein."

(ii) In **(2012)12 SCC 106** (Sajeesh Babu K vs. N. K. Sathosh and other), the Hon'ble Apex Court held as

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"20. It is clear that in a matter of appointment/selection by an Expert



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Committee/Board consisting of qualified persons in the particular field, normally, the courts should be slow to interfere with the opinions expressed by the experts, unless there is any allegation of mala fides against the experts who had constituted the Selection Committee. Admittedly, in the case on hand, there is no allegation of mala fides against the three experts in the Selection Committee. In such circumstances, we are of the view that it would normally be wise and safe for the courts to leave the decision of selection of this nature to the experts who are more familiar with the technicalities/nature of the work. In the case on hand, the Expert Committee evaluated the experience certificates produced by the appellant herein, interviewed him by putting specific questions as to direct sale, home delivered products, hospitality/service industry, etc., and awarded marks. In such circumstances, we hold that the High Court ought not to have sat as an appellate court on the recommendations made by the Expert Committee.

(iii) In 1995(II) MLJ 458 (V.Chandran vs. Oil Selection Board, Tamil Nadu, Pondicherry nad Andaman, Nicobar Islands and others), a Division Bench of this court held as follows:-

"14.As already seen, the 1st respondent Board is a high level body consisting of a retired Judge of this Court, one retired Deputy Accountant General and former member and acting Chairman of Tamil Nadu Public Service Commission and another respectable person. The 1st respondent, after considering the materials on record and the personal assessment of merit, business ability, capacity, etc., of the applicants, has prepared a panel according to their merits and granted the distribution-ship to the 4th respondent by the Letter of Indent dated 29.3.1994. The process of appreciating and weighing the various factors, materials and rival merits, is the function of the 1st respondent Board, which is having the necessary expertise and experience to perform its duties properly. In our view, there cannot therefore be any re-appreciation or re-appraisal of relevant material factors, relative qualifications and evaluation of the comparative merits of the candidates in a writ proceedings under Art.226 of the



Constitution of India."

8. In the above decisions, it has been consistently held that in the matter of selection by a committee consisting of experts in that field, the courts should be slow to interfere with the opinions of the experts, unless the allegation of mala fides against the experts, who had constituted the Selection Committee. Further, the scope of judicial review in those matters is confined to the decision-making process, but it does not extend to the merits of the decision taken.

9. In the case on hand, though the petitioner has made bald and vague allegations against the respondents 2 to 4 that they have awarded more marks to the private respondents with *mala fide* intention to drop down the petitioner and in respect of other two locations, they have secured only lesser marks, but no materials have been placed to show on what basis marks were awarded in other areas. Therefore, this court is not able to agree with the submissions of the learned Senior counsel for the petitioner. Further, it is not the case of the petitioner that the Selection Committee has not followed the procedure.

10. In the light of the above facts and the dictum laid down in the judgments referred supra, this court of the considered view that the petitioner is not entitled for the relief sought for in this writ petition. In that view, the writ petition fails and accordingly, the same is **dismissed**. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

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TE/KP/SAR-IV : 13/10/2017 : 5P/1C

W.P. (MD) No. 15809 of 2017 and
WMP (MD) Nos. 12496 and 12497 of 2017
27.09.2017