



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2017

Coram

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THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P. (MD) No.3716 of 2017

and

W.M.P. (MD) .Nos.2976 to 2978 of 2017

S.Lazar

: Petitioner

vs.

1.The District Collector,
Kanayakumari District,
At Nagarcoil.

2.The District Revenue Officer,
Kanyakumari District,
At Nagercoil.

3.The Senior Divisional Retail Sales Manager,
Indian Oil Corporation Ltd.,
No.2, Race Course Road,
Chokkikulam,
Madurai-2.

: Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India for the issue of a Writ Certiorarified of Mandamus calling for the records relating to the impugned order of the 2nd respondent in Roc. No. C1/14043/2016 dated 14.02.2017, quash the same and consequently direct the respondents herein to allow the petitioner's lawful business in terms of letter of appointment dated 16.03.2016.

For Petitioner : Mr.A.Rajkumar Sen

For Respondents 1 & 2 : Mr.A.Muthukaruppan
Additional Government Pleader

O R D E R

This writ petition is filed challenging the order dated 14.02.2017, issued by the 2nd respondent, cancelling the No Objection Certificate, issued to the third respondent Corporation to put up a retail outlet, (Petrol Pump) in T.S.No.A2/50-12 of Thuckalay Village (now Padmanabhapuram-A Revenue village) in

Kalkulam Taluk of Kanyakumari District.

2. Mr.A.Muthukaruppan, learned Additional Government Pleader takes notice for the respondents 1 & 2.

3. By consent of both parties, the main Writ Petition is taken up for disposal, at the admission stage itself.

4. The petitioner claims to be a lessee under the third respondent Corporation to run the said outlet.

5. Heard the learned counsel appearing for the petitioner and the perused the materials placed before this Court.

6. From the perusal of the facts and circumstances of the case and the impugned order passed by the second respondent, it is evident that the petitioner was not the person, who applied for No Objection Certificate and on the other hand, it is the third respondent Corporation, who applied for No Objection Certificate to run a retail outlet at the abovesaid premises. It is further seen that in pursuant to the objection raised by the Director of Archaeology, the Government of Kerala to stop functioning of the retail outlet of Indian Oil Corporation Limited, by considering the safety of Padmanabhapuram palace, which is located within 300 kilometre radius from that outlet, the second respondent issued notice to the IOC Limited under Section 151(1) of the Petroleum Rules, 1976 and after conducting an enquiry, on 23.05.2016, cancelled the No Objection Certificate, issued, by passing the impugned order. Admittedly, the impugned order was served on the IOC namely the third respondent herein. It is further seen that the third respondent in pursuant to the cancellation of No Objection Certificate by the second respondent, has also communicated the petitioner through proceedings dated 21.02.2017 that they are constrained to stop the supply of MS/HSD/lubes to the outlet with immediate effect. Now, the petitioner wants to contest before this Court by filing the present writ petitioner that the impugned order came to be passed without affording an opportunity of hearing to the petitioner.

7. I do not accept such contention for the simple reason that the petitioner was not the person, who applied for No Objection Certificate and on the other hand, it is only the IOC, which has applied and was heard before passing the order of cancellation. When the very IOC itself has passed the consequential order, stopping the supply pursuant to the order passed by the second respondent, impugned in this writ petition, I do not think that the petitioner can maintain the writ petition challenging the order of the second respondent. If the petitioner is having any grievance, he has to work out his remedy before the appellate authority as referred to in the impugned order itself. Therefore, I find no merits to entertain this writ petition.



8. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

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Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Kanyakumari District,
At Nagarcoil.

2. The District Revenue Officer,
Kanyakumari District,
At Nagercoil.

3. The Senior Divisional Retail Sales Manager,
Indian Oil Corporation Ltd.,
No.2, Race Course Road,
Chokkikulam, Madurai-2.

+ 1 CC TO Mr.A.RAJKUMAR SEN, ADVOCATE IN SR No. 12337

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 12287

VS

TE/SKN : 17/03/2017 : 3P/6C

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