



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.04.2017

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE V.PARTHIBANW.P (MD) No.23725 of 2016
and W.M.P. (MD) No.17057 of 2016

A.Sujitha

..Petitioner

Vs

- 1.Indian Oil Corporation Ltd.,
G-9, All Yavar Jung Marg,
Bandra (East),
Mumbai - 400 051.
- 2.The Senior Area Manager,
Indian Oil Corporation Ltd.,
Marketing Division, Indane Area Office,
"Triveni" II Floor,
B-35, Shastri Road,
Thillai Nagar,
Trichy - 620 018.

..Respondents.

Prayer: Writ Petition 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 rejection of the petitioners Application, by the 2nd respondent, vide Letter No.TRAO/IMP/KULAIMALAI/02, dated 30.11.2016 and quash the same and forbear the respondents from proceeding with selection Process, pursuant to the the Public Notice dated 03.12.2016 published in Dinamalar News Paper2 and direct the 2nd respondent to consider and to accept the documents submitted by the petitioner, for the Grant of LPG Distributorship License, at KULITHLAI (AIYAR MALAI), Karur District under S.C. Category, in her favour based on her Application in response to the Public Advertisement dated 21.09.2013 in Dina Malar.

For Petitioner

:Mr.S.Kadarkarai

For Respondents

: Mr.K.Muralidharan
Standing CounselORDER

The petitioner has approached this Court seeking quashment of the rejection of the petitioners Application, by the 2nd respondent, vide Letter No.TRAO/IMP/KULAIMALAI/02, dated 30.11.2016 and to forbear the respondents from proceeding with selection Process, pursuant to the Public Notice dated 03.12.2016



published in Dinamalar News Paper² and to direct the 2nd respondent to consider and to accept the documents submitted by the petitioner, for the Grant of LPG Distributorship License, at KULITHLAI (AIYAR MALAI), Karur District under S.C. Category, in her favour based on her Application in response to the Public Advertisement dated 21.09.2013 in Dina Malar.

2.The case of the petitioner is that she was an unemployed First Class Diploma Holder in Computer Engineering. In response to the Public Notification on 21.09.2013, inviting applications from unemployed educated candidates belonging to Schedule Caste for being appointed as the authorized Distributor for LPG products of the respondents at Kulithlai (Aiyar Malai), Karur District, the petitioner applied for consideration of her claim for the distributorship. According to the petitioner, she has submitted all the required documents. Thereafter, the petitioner was waiting for a call from the respondents for participating in the selection process. No action was forthcoming from the respondents in pursuance of the public notification on 21.09.2013. After considerable time, the selection was conducted on 18.07.2016, and the petitioner has participated in the same. The petitioner has also become successful in the selection and she has also deposited the security amount as required on being selected.

3.While so, to the petitioner's shock, a communication was received on 19.10.2016, wherein the petitioner was called upon to show cause as to why her candidature may not be rejected in view of certain deficiencies pointed out in the notice. In response to the notice, a reply was sent by the petitioner on 22.10.2016. In the reply the petitioner had assured that she would rectify the deficiencies pointed out by the respondents to the satisfaction of the authorities. While, the petitioner was awaiting a positive response from the respondents the impugned proceedings came to be issued on 30.11.2016 in and by which the petitioner was informed as under:

"Please refer your application (serial number TRA0/IMP/KULAIMALAI/02) for award of above-mentioned LPG Distributorship & our letter dated 19.10.2016.

We have received your representation letter dated: 22.10.2016 on 24.10.2016.

The land offered for showroom in application with survey no.48/26 located in Sathyamangalam village Ayyarmalai was shown to be registered on 20.11.2013.

As per distributorship selection guidelines, "the applicant should Own a suitable shop of minimum size 3 metre by 4.5 metre in outer dimension or a plot of land for construction of showroom of minimum size 3 metre by 4.5 metre as on the last date of submission of application as specified either in the advertisement or corrigendum (if any) at the advertised location i.e., within the municipal/town/ village limits of the place



which is mentioned under the column of 'location' in the advertisement. In case locality is also specified under the column of 'location' in the advertisement, the candidate should own a suitable shop of minimum size 3 metre by 4.5 metre in outer dimension or a plot of land for construction of showroom of minimum size 3 metre by 4.5 metre as on the last date of submission of application as specified either in the advertisement or corrigendum (if any) as per the standard layout in the said 'locality'. It should be easily accessible to general public through a suitable approach road."

The criteria for "own" is as given below

'Own' for godown/showroom means having

(a) Ownership title to the property
or

(b) Registered lease deed having minimum 15 years of valid period commencing on any day from the date of advertisement up to the last date of submission of application as specified either in the advertisement or corrigendum (if any).

During Field Verification of credentials, it was found that the above land was not 'owned' by the applicant as per the above distributorship guidelines. In the view of the above, the candidate has been offered to provide alternate land for showroom as per the guideline given below vide letter ref:TRAO/IMP/ KULAIMALA/02 dated 19.10.2016.

"In case if the offered land for godown/godown and offered land for showroom/showroom by the selected candidate which is shown in the application is found not meeting the eligibility conditions/requirements as stipulated in the advertisement/brochure/application at the time of Field Verification of Credentials (FVC), then the selected candidate can offer an alternative land which is owned by the applicant / member of the 'Family Unit' or land belonging to parents & grandparents (both maternal and paternal) of the applicant as on the last date for submission of application as specified either in the advertisement or corrigendum if any'

However, in your representation letter dt: 22.10.2016, you have offered an alternative land which has been registered on 06.09.2016 in the name of Mr. A.Arivalaghan father of A. Sujitha. Since the above alternate land offered by you does not fulfill the above eligibility criteria, the same could not be accepted.

In view of the above, your candidature is rejected and the amount of Rs.25000/- deposited with the Corporation stands forfeited in line with clause No.11 h & 11 I of the advertisement."

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

The said proceedings is under challenge before this Court.



4. Heard Mr.S.Kadarkarai, the learned counsel appearing for the petitioner and Mr.K.Muralidharan, the learned Standing Counsel appearing for the respondents.

5.Mr.K.Muralidharan, the learned Standing Counsel appearing for the respondents would submit that the petitioner did not fulfill the conditions as prescribed under Clause 14.2 of the Brochure on Selection of Indane (LPG) Distributors, March 2010, meaning that the petitioner did not own the facilities as required on the date of her application and therefore, her candidature was rightly rejected. He has filed a detailed counter affidavit vehemently opposing the prayer as contained in the writ petition. He would also submit that subsequently, a draw has been conducted and some other person has been allotted the dealership for the place in question.

6.Mr.S.Kadarkarai, the learned counsel appearing for the petitioner would submit that the said dealership has not been confirmed. The learned counsel appearing for the petitioner also drawn the attention of this Court at last clause of paragraph 9 which reads as follows:

"If the candidate has expressed that he can arrange for the land for godown / showroom, then if selected, the same has to be arranged within two months from the date of issue of LOI failing which LOI may be cancelled."

According to the learned counsel appearing for the petitioner, it is permissible for the candidate for fulfilling the required conditions within two months from the LOI and according to the petitioner the same has been fulfilled as per the said conditions. This aspect was not taken into consideration by the second respondent while passing the impugned order dated 30.11.2016. A reading of the above clause would disclose that even if no ownership is declared on the date of notification subsequently it is possible for arranging the same after candidate being selected ofcourse even two months thereafter. Only failing to complying with that license will be cancelled. In the above circumstances, Mr.Kadarkarai, the learned counsel appearing for the petitioner, however, submitted that the respondents may be directed to consider these aspects in proper perspective and pass a reasoned order on the claim of the petitioner.

7.Per contra, the learned Standing Counsel appearing for the respondents strongly oppose any such indulgence to be shown to the petitioner by this Court on the ground that the petitioner was not having the specific mandatory norms prescribed by the respondents and the petitioner cannot be allowed to take recourse to any other provisions of the Brochure in order to circumvent the mandatory in clause as per 14.2.

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

8.I have considered the rival submissions of the learned counsel for both sides and perused the materials placed before me.



9. There is considerable force in the contention of the learned counsel for the petitioner that the sub-clause under clause 9 gives a scope for the petitioner to subsequently arrange for the land for godown and showroom within two months from the date of issue of LOI and according to the petitioner the same had been fulfilled in terms of the said clause. In such circumstances, without taking this aspect into consideration, the order passed by the second respondent dated 30.11.2016 cannot be valid since that would be against their own clause as contained in the Brochure, particularly under Clause 9.

10. Further, when reading the entire sub-clause 9, this Court finds that clauses are contradicting with each other. But this Court deems it proper to give the benefit of doubt to the petitioner herein and directing the respondents to pass fresh orders by considering the sub-clause of 9 as extracted above and in case the petitioner fulfills the other mandatory conditions for the allotment of LPG distributorship, the same may be considered. The respondents shall pass fresh orders within a period of eight weeks from the date of receipt of a copy of this order as indicated above.

11. With these directions, this Writ Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs.

Sd/-

Assistant Registrar (CSI)

/True Copy/

Sub-Assistant Registrar

To

1. Indian Oil Corporation Ltd.,
G-9, All Yavar Jung Marg,
Bandra (East),
Mumbai - 400 051.

2. The Senior Area Manager,
Indian Oil Corporation Ltd.,
Marketing Division, Indane Area Office,
"Triveni" II Floor,
B-35, Shastri Road, Thillai Nagar,
Trichy - 620 018.

+One cc to Mr. S. Kadarkarai, Advocate, SR.No.51843

sj

RL/4C/5P/SV/MMS/25.4.2017

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

W.P (MD) No.23725 of 2016
and W.M.P. (MD) No.17057 of 2016

12.04.2017