



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.A. (MD) No.153 of 2013
and
M.P. (MD) Nos. 1 And 2 of 2013
and
C.M.P (MD) No.7685 of 2017

Indira : Appellant/Petitioner

Vs.

1.Bharat Petroleum Corporation Limited,
having is registered Office at
Bharat Bhavan,
4 & 6 Currimbhoy Road,
Ballard Estate,
Mumbai - 400 001.

2.The Territory Manager,
Bharat Petroleum Corporation Limited,
Madurai Bye-pass Road,
Tuticorin - 628 008.

: Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent,
praying this Court to set aside the order passed by this Court in
W.P(MD)No.9292 Of 2012, dated 18.01.2013.

Prayer in WP(MD). 9292/ 2012 :

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 of the 2nd
respondent dated 29.06.2012 in TCN:LPG:DSP: MADURAI OPEN (W),
quash the same as arbitrary, ultravires and consequentially
directing the respondents to issue a Letter of Intent (LOI) on the
basis of the empanelment order.

For Appellant : Mr.G.Ethirajulu
for M/s.K.Balu

For Respondent No.1 : No Appearance

For Respondent No.2 : M/s.S.Nates Raja



JUDGMENT

[Judgment of the Court was made by M.M.SUNDRESH, J.]

The appellant is one of the applicant, who sought for distributorship. In the interview, after conclusion of the interview, the Petitioner obtained 95.67 marks. The next candidate has secured 94.50 marks. In pursuant to the Field Verification made, it was found that the appellant did not give the correct particulars with respect to Item No.13-A1, 14(3) and 14(4). These items are relatable to the go-down for storage of LPG Cylinders, fixed deposits and other assets/property of the family. It appears that item 13-A1 stands in the name of the appellant and her sister in law. It is the case of the appellant, that even one takes into consideration of the share of the appellant, though the co-owner has given a consent letter. Regarding second item, it is submitted that the husband has given fixed deposit, which has not been taken into account. Insofar as the third item is considered, it is submitted that the sister of the appellant's husband alone can be taken into account, for which there is no bar.

2.The learned counsel for the respondent would submit that in the absence of mala-fides, no interference is required, more so, information furnished are not correct. The marks have been awarded, based upon the information furnished at the time of application alone. Therefore S.No.16 of the applicant would come into play.

3.We are of the view that the learned Single Judge ought not to have gone into the merits of the case. Admittedly, the order affects the appellant. There is no dispute on facts that the appellant as per the marks awarded originally would have become successful and therefore got dealership in her name.

4.In such view of the matter, we believe that the respondents ought to have put the appellant on notice to explain the circumstance under which the aforesaid items have been notified in the application. We do not want to undertake the said exercise in this Writ Appeal, as it is for the respondent to take note of it. Suffice to state that considering the facts, we deem it fit that the appellant ought to have been given an opportunity to explain her case.

5.In such view of the matter, the order impugned herein is treated as show-cause notice and the appellant is directed to give her explanation within a period of for weeks from the date of receipt of a copy of this order. On receipt of such explanation, the respondent concerned is directed to do the needful and pass an order within a period of six weeks therefrom.



6. With the above directions, the Writ Appeal stands disposed of. Consequently, connected Miscellaneous Petitions are closed. No costs.

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Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

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Bharat Petroleum Corporation Limited,
Madurai Bye-pass Road,
Tuticorin - 628 008.

+2cc to M/S.K.Balu, Advocate SR.No. 78146, 78081
+1cc to M/S.S.Natesh Raja, Advocate SR.No. 77844

JUDGMENT MADE IN
W.A. (MD) No. 153 of 2013
and
M.P. (MD) Nos. 1 And 2 of 2013
and
C.M.P (MD) No. 7685 of 2017
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vsn
JM/RSK/SAR 2/13.09.2017/3P/6C