

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

WP No.9089/2017 and WMP.No.10031 of 2017

M/s.OM SAKTHI BHARAT GAS ENTERPRISE,
Rep. By Prop. Tamil Sengolan,
S/o.Om Sakthisekar,
No.87, Lenin Street, Kosapalayam,
Puducherry - 605 013

Petitioner

Vs

- 1.Union of India,
Rep. By Secretary,
Ministry of Petroleum and Natural Gas,
Shastri Bhavan, New Delhi - 110 001.
- 2.State Level Coordinator for
IOCL, BPCL & HPCL, Executive Director,
Tamilnadu & Pondicherry,
Indian Oil Corporation Limited,
Indian Oil Bhavan,
139, Nungambakkam High Road,
Nungambakkam, Chennai 600 034.
3. Bharat Petroleum Corporation Limited,
Rep. By Chairman & Managing Director,
Bharat Bhavan, 4&6, Currimbhoy Road,
Ballard Estate, Mumbai 400 001.
4. The Regional LPG Manager,
L.P.G.Business Unit,
Bharat Petroleum Corporation Limited,
Regional Office - South No.1,
Ranganathan Garden,
11th Main Road, Anna Nagar,
Chennai 600 040.
5. The Territory Manager,
Bharat petroleum Corporation Limited,
Thanjavur LPG Territory,
M.G.M.T.B.Sanitorium P.O.3`
Sengipath
Thanjavur - 613 401.

6. Sree Ramachandra Gas Agencies,
Rep. By Proprietor,
No.148, Point Care Street,
O.K.Palayam, U.T.Pondy,
Pondicherry - 605 004.

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents 4 and 5 to consider the petitioner's representation dated 17.08.2016 and effect transfer of LPG gas connection from the existing distributor and make the petitioner viable.

For petitioner : Mr.J.R.K.Bhavanantham
For Respondent : Mr.T.V.Krishnamachari for R1
Mr.Vijayan for
M/s.King & Patridge for R2 to R5
Mr.M.Narayanasamy for R6

ORDER

By consent, the writ petition is taken up for final disposal.

2 The petitioner claims to be the Proprietor of the petitioner agency and according to him, the 2nd respondent has called for application for LPG Distributorship through an advertisement, under several categories. The petitioner had taken lease of land for the purpose of LPG Godown and so also applied for LPG distributorship in Puducherry area on 15.10.2013 for the category of OBC MKT PLAN: 2013 in application serial No.PD/TAN/PND/003. The petitioner was intimated by the 5th respondent as to his qualification for the draw for selection of the LPG distributorship to be held on 05.02.2014 at 11.00 a.m. and according to the petitioner, he has been selected for Puducherry region and he has also submitted Demand Draft for Rs.25,000/- on the same day in favour of Bharat Petroleum Corporation Limited, being 10% of the Security Deposit of 2.5 lakhs for LPG Distributorship. The petitioner was issued with the Letter of Intent dated 13.02.2014 on condition that he should provide a godown having mastic flooring for storage of 8000 kg (minimum) of LPG filled in cylinders and also get necessary clearance.

3 The petitioner has also obtained all clearance and he was also permitted to start the said agency and accordingly, the petitioner commenced the business on 20.08.2015. According to the petitioner, as of now he is having 4678 active customers and supplying only 1700 refilling per month and the 6th respondent having 24,332 active customers and supplying refill of 9800 per month. The specific case of the petitioner is that transfer of

LPG customers from the old distributors are also provided, who are operating above the 75% of the ceiling of the market and in this regard, hle has also submitted a representation dated 17.08.2016 to the 5th respondent for transfer of LPG gas connection from the existing distributor to make the petitioner viable and despite receipt of the same, no orders have been passed and hence came forward to file this writ petition.

4 The learned counsel appearing for the petitioner has invited the attention of this Court to the proceedings No.P-20012/65/2000-Mkt of Government of India, Ministry of Petroleum & Natural Gas, New Delhi dated 01.02.2002 as well as the communication of the same Ministry dated 11.04.2013 and would submit that in the light of the said proceedings, there cannot be any difficulty for transferring the customers from 6th respondent to the petitioner Agency and hence prays for appropriate orders.

5 The learned counsel appearing for the 6th respondent would submit that the 6th respondent, by dint of hard work, has developed the consumers and the petitioner having entered into the joint venture, is aware of the normal consequence and as such, he cannot seek direction to the official respondent to transfer the customers from the 6th respondent agency to the petitioner and hence prays for dismissal of this writ petition and also drawn attention of this Court to the counter affidavit and the learned counsel appearing for the respondents 2 to 5 would submit that the representation dated 17.08.2016 submitted by the petitioner would be considered and give a disposal in accordance with law.

6 This Court, in the light of the above facts and circumstances and without going into the merits of the claim projected by the petitioner, either in his representation or in this writ petition, directs the 5th respondent to put the 6th respondent on notice and thereafter consider and dispose of the petitioner's representation dated 17.08.2016 on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner as well as to the 6th respondent.

8 The writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True copy//

Sub Assistant Registrar

rka/sk

To

1. Union of India,
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M.G.M.T.B. Sanitorium P.O.3`
Sengipath
Thanjavur - 613 401.

+1cc to Mr.M.Narayanaswamy, Advocate SR.No.6496
+1cc to Mr.J.R.K.Bhavanantham, Advocate SR.No.6533
+1cc to Mr.King & Patridge, Advocate SR.No.6755

WP No.9089/2017

GN(21/02/2018)