

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-07-2018

CORAM:

THE HON'BLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.10598 of 2017
and
W.M.P.Nos.11536 of 2017
and
W.M.P.No.19207 of 2018

V.Renuka Devi

..Petitioner

vs.

1.Indian Oil Corporation Ltd,
Rep.by its Senior Area Manager,
Indane Area Office, 500, Anna Salai,
Teynampet, Chennai - 600 018.

2.Mr.K.Tamizharasan
(R2-Impleaded as per order dated 19.03.2018
in W.M.P.No.36850 of 2017
in W.P.No.10598 of 2017)

...Respondents

Prayer:Writ Petition is filed under Article 226 of the Constitution of India, seeking for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondent issued in his proceedings in Ref.No.CHAO/KPIK/021 dated 15.04.2017 and quash the same as illegal and consequently direct the respondent to grant the LPG Distributorship license to the petitioner for Kanchipuram(Iyangarkulam) as per the advertisement dated 21.09.2013.

For petitioner : Mr.S.Silambanan, Senior counsel
for Mrs.K.Sasindran

For Respondents : Mr.Abdul Saleem for R1
Mr.S.R.Raghunathan for R2

O R D E R

The order of rejection dated 15.04.2017 in respect of the claim of the writ petitioner for LPG Distributorship license for Kanchipuram (Iyangarkulam) as per the advertisement dated 21.09.2013 is under challenge in this writ petition.

2.The learned Senior Counsel appearing on behalf of the writ petitioner made a submission that the respondent Corporation had issued an Advertisement on 21.09.2013 in the newspaper calling applications from the eligible persons for appointment of LPG Distributorship license under various categories at different locations in the State of Tamil Nadu. The Notification in S.No.161 specifies about Kanchipuram(Iyangarkulam), which is reserved for S.C.Category. The Notification also enumerates various conditions and qualifications for applying distributorship.

3.The learned Senior Counsel states that the writ petitioner is fully qualified and accordingly made an application on 22.10.2013, for grant of LPG Distributorship for the above said location viz Kancheepuram (Iyangarkulam). The writ petitioner submitted all the relevant documents and also enclosed a Demand Draft for a sum of Rs.500/- (Rupees Five Hundred only) towards non-refundable fees for processing the application and the writ petitioner was waiting for the selection process. Under these circumstances, the respondent sent a letter dated 14.07.2016, informing the writ petitioner that she has qualified for LPG Distributorship and accordingly, the petitioner was permitted to appear for the draw on 27.07.2016 in the office of the respondent. The writ petitioner participated in the draw and she was declared as selected candidate during the draw. Subsequently, the respondent sent a letter on 02.08.2016, calling upon the writ petitioner to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) in favour of the respondent Corporation as per Clause No.11(h) of the advertisement within three days from the date of receipt of the notice. In compliance, the writ petitioner had also paid Rs.25,000/- (Rupees Twenty Five Thousand only) by way of a Demand Draft on 05.08.2016 in favour of the respondent Corporation. The respondent officials had inspected the site mentioned in the application as Godown and showroom on 12.08.2016 and found that everything stated in the application was proper. As per Clause (1) of the Advertisement, the writ petitioner should maintain a minimum balance of Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand only) in her Bank account on the last date of submitting the application on 22.10.2013. In fact, the petitioner was having a sum of Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand only) on that particular day in her account maintained in Indian Overseas Bank, Tambaram. However, the respondent did not considered by stating that the amount was not maintained as a closing balance. Thus, the respondent directed the writ petitioner to give another account details to satisfy Clause(1). The writ petitioner also furnished a different account details, which stands in the name of the writ petitioner and the same was not considered in view of the fact that the

writ petitioner had not maintained the minimum amount on the crucial date. Thus, the impugned order has been passed, stating that the writ petitioner is not qualified and accordingly, her candidature is rejected.

4.The learned Senior Counsel for the writ petitioner made a submission that the respondents ought to have considered the account maintained by the writ petitioner in the Cooperative Society. When the writ petitioner was having the required balance amount in her Cooperative Society account, the same ought to have been considered by the respondent Corporation at the time of considering the case of the writ petitioner for grant of LPG Distributorship. However, the respondent had erroneously passed the impugned order even without providing an opportunity and even without considering the closing balance maintained by the writ petitioner in her account maintained in a Cooperative Society.

5.The learned counsel appearing on behalf of the first respondent Corporation opposed the contention by stating that the respondents have violated the conditions published in the Advertisement strictly and scrupulously. The officials of the respondent Corporation had not violated the conditions stipulated in the Advertisement. At each stage, they have verified the application and conducted inspections in respect of the site shown by the respective applicants and the decisions were taken. Thus, the case of the petitioner was also considered in the similar way and ultimately, the authorities came to a conclusion that the writ petitioner has violated the conditions stipulated in the Advertisement and not maintained the required minimum balance amount as per the conditions stipulated. Thus, the order of rejection was passed by the competent authorities in proceedings dated 15.04.2017 and there is no irregularity as such in respect of the order of rejection.

6.The learned counsel appearing on behalf of the impleaded respondent contended that pursuant to the order of rejection passed in proceedings dated 15.04.2017 in respect of the application submitted by the writ petitioner, the second respondent was awarded with the contract on 09.06.2017 and he was already appointed as LPG Distributor in that particular area. The second respondent completed all his works. The affidavit filed by the impleaded second respondent states that after the Award of contract in his favour by the first respondent Corporation, he resigned his job from a Company, wherein he was working and spent substantial amount in this regard. The second respondent has stated that he obtained loans from the financial institutions to the tune of Rs.14,00,000/- (Rupees Fourteen Lakhs only) and had spent about Rs.36,00,000/- (Rupees Thirty Six Lakhs only) additionally from his own funds

for the construction of building to run the LPG Distributorship. It is stated that the second respondent had completed about 90% of the works towards the LPG Distributorship in the office as well as in the Godown. The second respondent also had obtained all necessary No-Objection Certificate from all the requisite Departments for establishing the premises to continue the LPG Distributorship as per the contract signed by the first respondent Corporation with the second respondent. In the event of now reversing the decision, a great financial loss would be caused to the second respondent and further, he has invested a huge amount and constructed a building for the purpose of running the LPG Distributorship.

7.The learned Senior Counsel appearing on behalf of the writ petitioner made an impression before this Court that if at all, the petitioner has committed a lapse, it is a minor discrepancy and actually, she was maintaining the required minimum amount of closing balance in the Cooperative Society. It is not the case, as if the petitioner was not having the requisite amount, she was having the required amount and the same was in the accounts of the Cooperative Society. Therefore, the first respondent ought to have considered the case of the writ petitioner.

8.Now, this Court has to adopt a practical and pragmatic approach in respect of the situations now prevailing. Even if the case of the petitioner is to be considered, this Court is of an opinion that the 2nd respondent was awarded with the contract by the first respondent in June 2017 itself. Thereafter, the second respondent invested a huge amount and further, construction for the purpose of running the LPG Distributorship. It is stated in the affidavit filed by the 2nd respondent that 90% of the building works were completed both in the Godown as well as in the showroom. Such being the factum of the case, it is not preferable to reverse the decision taken by the first respondent on 15.04.2017 through which the application of the writ petitioner had been rejected. It is made clear that the second respondent had already been awarded with the contract in June 2017 and he had almost completed the works for the purpose of running the LPG Distributorship. Thus, this Court is not inclined to accept the case of the writ petitioner and furthermore, the conditions stipulated in the Advertisement by the first respondent Corporation had not been strictly complied with by the writ petitioner and there cannot be any leniency in this issue at this point of time in view of the fact that the second respondent had invested a huge amount. However, it is made clear that the writ petitioner is at liberty to participate in any forthcoming Notification and the first respondent also may consider the case of the writ petitioner along with all other eligible candidates, if she is otherwise qualified in accordance with the terms and conditions of the Notification to be issued.

9. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

Indian Oil Corporation Ltd,
Rep.by its Senior Area Manager,
Indane Area Office, 500, Anna Salai,
Teynampet, Chennai - 600 018.

+1cc to Mr.K.Sasindran, Advocate, S.R.No.49052

+1cc to Mr.Abdul Saleem, Advocate, S.R.No.48340

+1cc to Mr.S.R.Raghunathan, Advocate, S.R.No.48589

W.P.No.10598 of 2017

GSP(31/07/2018)



WEB COPY