

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 11-09-2018

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.15965 of 2015

And

M.P.Nos.1,2 & 3 of 2015 and 20965 of 2016

M.Balaji

... Petitioner

..Vs..

1.The District Revenue Officer,
Vellore,
Vellore District.

2.The Sub Collector,
Ranipet,
Vellore District.

3.The Tahsildar,
Walaja Taluk,
Walaja,
Vellore District.

4.The Chief Area Manager,
Indian Oil Corporation Limited,
Indane Area Office,
No.500, Anna Salai,
Teynampet,
Chennai-18.

5.R.Govindaraji

... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the first respondent in his proceedings Na.Ka.G1/4402/2015, dated 27.5.2015, whereby confirming the order of the second respondent in his proceedings Mu. Mu/(A7)/4859/2011, dated 12.7.2011 and quash the same.

For Petitioner : Mr.C.Prakasam

For Respondents 1to3 : Mrs.A.Shrijayanthi,
Special Government Pleader.

For Respondent-4 : Mr.Mohammed Fayaz Ali.

O R D E R

The order of cancellation of Residential Certificate issued by the first respondent in proceedings dated 27.5.2015, confirming the order of the second respondent, issued in proceedings dated 12.7.2011, are under challenge in this writ petition.

2. The fourth respondent-Indian Oil Corporation Limited has invited applications for appointment of Gas Agency Dealership for Ammoor village, Walajah Taluk, Vellore District. The writ petitioner also submitted his application for grant of Gas Agency Dealership in Ammoor village. In this regard, the writ petitioner as well as the fifth respondent had participated as per the notification issued by the Indian Oil Corporation Limited.

3. The grievance of the writ petitioner is that he obtained the Residential Certificate from the competent Revenue Officer and based on that the Agency Dealership was granted to him and even now he is continuing his Agency Dealership in Ammoor village with effect from the year 2013 onwards. Subsequently, the fifth respondent submitted an appeal to the Sub Collector on the ground that the writ petitioner is not the resident of Ammoor Village and he was residing in some other village. The appeal was entertained and the Sub Collector passed an order that the writ petitioner was not the permanent resident of Ammoor village and he shifted his residence from some other village to Ammoor village in order to get the Agency Dealership from the Indian Oil Corporation Limited. The said order of cancellation of residential Certificate, issued by the original authority, was confirmed by the District Revenue Officer, Vellore District in proceedings dated 27.5.2015. The impugned order states that the writ petitioner is not the actual resident of Ammoor village, however, he shifted his residence from some other place and obtained the Residential Certificate and therefore, the said Residential Certificate is liable to be cancelled.

4. The learned counsel, appearing on behalf of the fifth respondent, contended that the writ petitioner is not entitled for grant of Agency Dealership by the Indian Oil Corporation Limited in view of the fact that he is not the permanent resident of Ammoor village. The fifth respondent is the permanent resident of the Ammoor village and he is more suitable and therefore, the Agency Dealership ought to have been granted to the fifth respondent. Based on the erroneous Certificate issued by the Revenue Officer, the writ petitioner obtained the Agency Dealership and the said Certificate was

subsequently cancelled. Thus, the writ petitioner is not entitled for any relief.

5. This Court is of an opinion that undoubtedly, it was established before the Sub Collector as well as before the District Revenue Officer that the writ petitioner is not the permanent resident of Ammoor village, however, he shifted his residence from some other village to Ammoor village only to get Gas Agency Dealership from the Indian Oil Corporation Limited.

6. It is contended that even at the time of submission of the application, the writ petitioner had shifted his residence to Ammoor village and decided to reside there only to run the Gas Agency Dealership. This being the factum, the grant of Residential Certificate may not be of much relevance in view of the fact that the writ petitioner had given an undertaking to the Indian Oil Corporation Limited that he will continue to reside in Ammoor village as long as he holds the Agency Dealership with the Indian Oil Corporation Limited.

7. As rightly contended by the learned counsel for the fifth respondent, the Sub Collector as well as the District Revenue Officer had conducted an enquiry and found that the writ petitioner was earlier not residing in Ammoor village. The factual details were collected and a finding was given that the writ petitioner was residing in some other village and thereafter, shifted his residence to Ammoor village. Accordingly, the authorities have cancelled the Residential Certificate granted in favour of the writ petitioner.

8. Under these circumstances, this Court is of an opinion that the cancellation of the Residential Certificate granted in favour of the writ petitioner is certainly based on the factual circumstances and based on the enquiry and that there is no infirmity in respect of the findings made by the District Revenue Officer as well as by the Sub Collector in the impugned proceedings. But the issue in question is in relation to the grant of Gas Agency Dealership by the Indian Oil Corporation Limited. The Indian Oil Corporation Limited granted the Agency Dealership in favour of the writ petitioner on certain terms and conditions. The allotment of Agency Dealership in favour of the writ petitioner was granted on 28.2.2011, wherein certain conditions are imposed on the writ petitioner. One of the conditions imposed in paragraph 3.4 reads as under:-

"3.4 Shift your residence to Ammoor (if you are presently staying away from the location) in order to personally operate the RGGLV as stated in para 3.3 above and give us a written undertaking to this effect."

9. Thus, even if the writ petitioner was residing in some other village and shifted his residence to Ammoor village and the Agency Dealership is granted to him, then also he is

eligible to continue as an Agent in Ammoor village. The only condition imposed by the Indian Oil Corporation Limited was that the writ petitioner should stay in the same village for the purpose of distributing gas cylinders to the residents of that locality.

10. This being the condition imposed by the Indian Oil Corporation Limited, while granting Gas Agency Dealership, the grant of Residential Certificate or cancellation of the same, may not have much relevance in view of the fact that the Indian Oil Corporation Limited itself has agreed that the person granted with an Agency Dealership need not be the permanent resident of that particular village and if an undertaking is given to the effect that he will continue to reside in the village, where the dealership is granted, then also his case can be considered. This being the condition imposed by the Indian Oil Corporation Limited, the impugned order may not have any impact in respect of the continuance of Agency Dealership granted to the writ petitioner in Ammoor village.

11. In this view of the matter, this Court is of an opinion that the order impugned need not be quashed in view of the fact that there is no factual irregularity or infirmity in respect of the findings. However, the writ petitioner is entitled to continue his Gas Agency Dealership, pursuant to the conditions imposed by the Indian Oil Corporation Limited, more specifically, in paragraph 3.4 of the proceedings dated 28.2.2011.

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

Sd/-
Assistant Registrar(CS IX)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

Svn

To

1.The District Revenue Officer,
Vellore,
Vellore District.

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2.The Sub Collector,
Ranipet,
Vellore District.

3.The Tahsildar,
Walaja Taluk,
Walaja,
Vellore District.

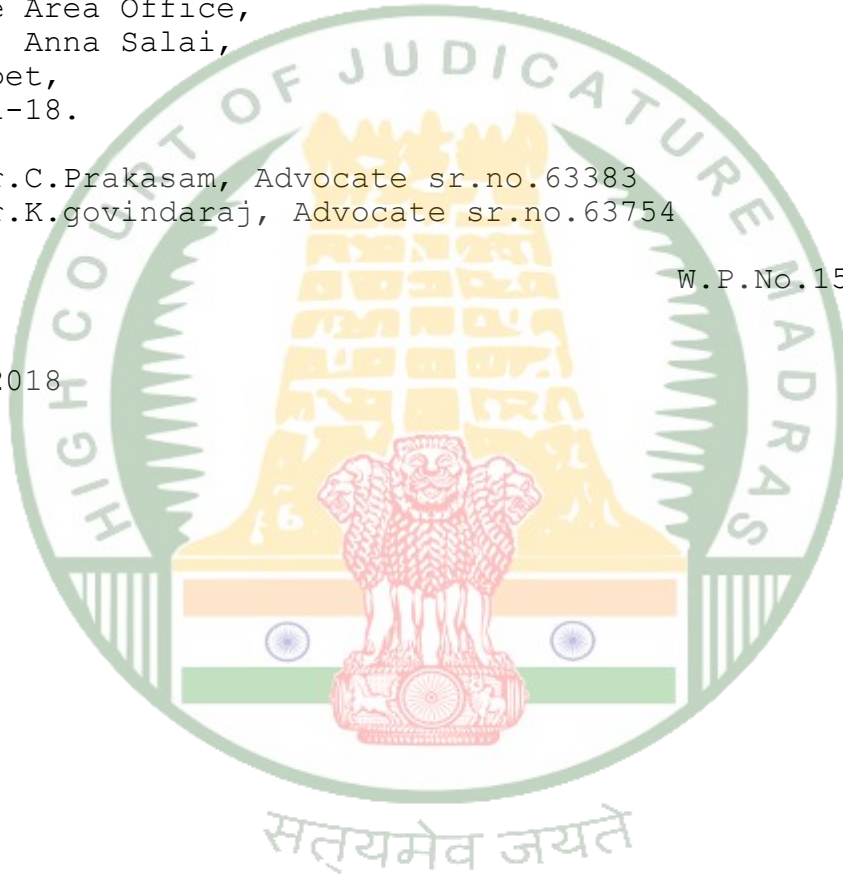
4.The Chief Area Manager,
Indian Oil Corporation Limited,
Indiane Area Office,
No.500, Anna Salai,
Teynampet,
Chennai-18.

+1cc to Mr.C.Prakasam, Advocate sr.no.63383

+1cc to Mr.K.govindaraj, Advocate sr.no.63754

W.P.No.15965 of 2015

ss(co)
nr 26/09/2018



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