

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18.07.2018

CORAM

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

W.P.No.34083 of 2017

and

W.M.P.No.37828 of 2017

R.Virouthamballe

..Petitioner

vs

The Chief Area Manager-Trichy Area Office,
Marketing Division:Indane Area Office,
'Triveni' II Floor, B-35, Shastri Road,
Thillai Nagar, Trichy-620 018.
.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records which relates to the impugned order dated 08.11.2017 passed by the respondent bearing Letter Ref.No.TRAO/Puducherry (Kirumam) passed by the respondent and quash the same and consequently direct the respondent to award of the regular LPG distributorship at Puducherry (Kirumambakkam) under OBC category on Application SI.NO.TRAO/IMP/Pudukiru/21 to the petitioner.

For Petitioner : Mr.T.Saikrishnan for Mr.Sai Bharath
For Respondent : Mr.Mohammed Fayaz Ali

ORDER

The relief sought for in the writ petition is to call for the records which relates to the impugned order dated 08.11.2017 passed by the respondent bearing Letter ref.No.TRAO/Puducherry (Kirumam) passed by the respondent and to quash the same and consequently, to direct the respondent to award of the regular LPG distributorship at Puducherry (Kirumambakkam) under OBC category on Application SI.NO.TRAO/IMP/Pudukiru/21 to the petitioner.

2. The learned counsel appearing for the petitioner made a submission that the petitioner submitted an application for grant of LPG Distributorship at Puducherry (Kirumambakkam) and one of the conditions stipulated by the respondent Corporation is that:

'vi. Have a minimum total amount of Rs,15 lakhs for Urban Markets and Rs.10 lakhs for Urban Rural & Rural Markets respectively as the closing balance on the

last date for submission of application as specified in the advertisement or corrigendum (if any). This amount is to be arrived at by adding amount in Savings Bank accounts in Scheduled Bank/Post Office, free and un-encumbered Fixed Deposits in Scheduled Banks, Post Office, Listed Companies/Government Organisation/Public Sector Undertaking of State and Central Government, Kisan Vikas Patra, NSC, Bonds, Shares of Listed Companies, Listed Mutual Funds, ULIP, PPF, Surrender Value of the Insurance Policies in the name of Applicant or family members of the 'Family Unit' of the Applicant as defined above. In case of locations reserved under 'SC/ST' category, minimum total amount of Rs.5 lakhs for Urban Markets and Rs.2.5 lakhs for Urban-Rural & Rural Markets respectively should be available as the Closing balance on the last date for submission of application as specified in the advertisement or corrigendum (if any).''

3. The learned counsel appearing on behalf of the petitioner made a submission that as per the condition stipulated in Clause v(i) of the Guidelines for selection of regular LPG Distributor, the writ petitioner have deposited Rs.10,00,000/- in her account in Andhra Bank. However, the said amount was not maintained until last date of the submission of the application as per the conditions stipulated in the guidelines for selection of regular LPG distributorship. The amount of Rs.10,00,000/- deposited by the writ petitioner had been withdrawn, even before completion of the last date of submission of the application.

4. The learned counsel appearing for the petitioner states that in view of the said amount of withdrawal, the petitioner had submitted equivalent value of LIC Policies and other required documents, on receipt of the letter from the respondents. In other words, the respondent sent a letter to submit a proof for the said amount of Rs.10,00,000/- and at that point, the writ petitioner had submitted the proof by way of LIC Policies. Thus, the case of the petitioner also to be considered.

5. The learned counsel appearing for the respondents opposed the contention by stating that the conditions stipulated in the guidelines are very clear that the eligible applicants should maintain minimum amount of Rs.10,00,000/- in account, till the last date of submission of the application. It is admitted that the writ petitioner had withdrawn the deposited amount of Rs.10,00,000/- even before the completion of the last date. However only on receipt of the letter sent by the Corporation, the writ petitioner had submitted the LIC Policies,

which cannot be accepted by the respondents. The condition stipulated in the guidelines has been violated by the writ petitioner and further the learned counsel appearing for the respondents urged this Court by stating that the candidates who are submitting their application are taking such modus operandi in order to avoid the maintenance of the minimum amount of Rs.10,00,000/- as contemplated under the guidelines. Thus, such a practice of withdrawing the amount and producing the LIC policies, cannot be accepted by the respondent and such a condition is imposed in order to assess the capacity of the persons to run the LPG distributorship. The statement of accounts of the writ petitioner is enclosed in Page No.10 of the typed set of papers filed along with vacate stay petition.

6. The learned counsel appearing for the respondent would submit that on 01.07.2013, the balance in the account was Rs.948/-, an amount of Rs.5,00,000/- was deposited on 17.10.2013 and another amount of Rs.5,00,000/- on 18.10.2013. Accordingly, the writ petitioner has submitted an application on 18.10.2013 and the amount of Rs.10,00,000/- was deposited on 18.10.2013 on the date of submission of the application by the writ petitioner. It is pertinent to note that the said amount was withdrawn on 19.10.2013 i.e., on the next day of submission of the application and another amount Rs.5,00,000/- also on the very same date on 19.10.2013. Therefore, the entire 10,08,000/- had been withdrawn within a period of one day from the date of deposit. Thereafter as on the last date on 22.11.2013, the minimum balance maintained by the writ petitioner in his account was Rs.726/-. Thus, the modus operandi of the writ petitioner, in order to maintain the eligibility, is not in accordance with the terms and conditions stipulated by the respondent/Corporation. It is to be noted that the writ petitioner has not complied with the conditions. The bonafide compliance of such conditions are also to be made clear by the persons who are submitting their applications for LPG Distributorship. When the writ petitioner had deposited Rs.10,00,000/- on 18.10.2013 and withdrawn the entire amount on 19.10.2013, few hours after the submission of the application, the factual inference has to be drawn that the petitioner cannot be construed as bonafide candidate and therefore, the order of rejection passed by the respondent is in accordance with the conditions stipulated in the guidelines. Subsequent production of LIC Policies will not cure the defect already occurred. During the interregnum period, the minimum amount of Rs.10,00,000/- has not been maintained.

7. The learned counsel appearing for the petitioner has stated that the LIC policies were in force, even before the submission of the application. However, the same was not produced at the time of submission of the application.

8. Admittedly such being the factum of the case, this Court is of an opinion that the conditions stipulated in the guidelines are to be followed scrupulously by the authorities concerned. On account of diluting such conditions, the claim of rightful candidates will be denied and the persons, who are diluting or deviating the conditions, cannot be considered, over and above the candidates, who are otherwise eligible and complied with all the conditions without any lacuna or lapses.

9. This Court is of an opinion that the respondents are at liberty to proceed with the appointment of LPG Dealership on merits and as per the procedures contemplated.

10. The writ petition stands dismissed. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(Cs v)

//True Copy//

Sub Assistant Registrar

To

The Chief Area Manager-Trichy Area Office,
Marketing Division:Indane Area Office,
'Triveni' II Floor, B-35, Shastri Road,
Thillai Nagar, Trichy-620 018.

+lcc to M/s.Sai Bharath & Ilan, Advocate Sr.No.47644
+lcc to Mr.Mohammed Fayaz Ali, Advocate Sr.No.47648

SPD(CO)
sm:7.8.2018

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