

IN THE HIGH COURT OF JUDICATURE AT MADRAS

ORDERS RESERVED ON : 29-01-2018

ORDERS PRONOUNCED ON : 06-02-2018

CORAM

THE HON'BLE MR.JUSTICE V.PARTHIBAN

W.P.No.1719 of 2012

K.Velmurugan

.. Petitioner

vs.

1.The Deputy General Manager/
Grievance Redressal Officer,
Hindustan Petroleum Corporation Ltd.,
LPG Division, 4th Floor,
Thalamuthu Natarajan Building,
Gandhi Irwin Road,
Egmore,
Chennai-8.

2.The Senior Regional Manager,
LPG Division,
Hindustan Petroleum Corporation Ltd.,
Petro Bhavan,
TTK Road,
Alwarpet,
Chennai-15.

3.P.V.Parameswaran

4.R.Geetha

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the first respondent dated 11.1.2012 vide Ref.No.KS/LPG and to quash the same and consequently, set aside the selection of the third respondent for LPG Distributorship at Bhuvanagiri, Cuddalore District and direct the respondents to issue a Letter of Intent to the petitioner.

For Petitioner : Mr.S.Vijayakumar

For Respondents 1&2 : Mr.Vijayan for M/s.King & Patridge

For Respondent-3 : Mr.D.Shivakumaran

For Respondent-4 : Mr.S.Soundar

O R D E R

The relief sought for in this writ petition is to call for the records relating to the first respondent dated 11.1.2012 vide Ref.No.KS/LPG and to quash the same and consequently, set aside the selection of the third respondent for LPG Distributorship at Bhuvanagiri, Cuddalore District and direct the respondents to issue a Letter of Intent to the petitioner.

2. The case of the petitioner is as follows:-

The first respondent-Corporation issued a Notification on 15.6.2010, inviting applications for LPG Distributorship in respect of several places in the State of Tamil Nadu, one of the places notified was Bhuvanagiri, Chidambaram Taluk, Cuddalore District. The petitioner, in response to the said Notification, applied for consideration of Distributorship under Open Category vide his application dated 19.7.2010.

3. According to the petitioner, he is a native of Bhuvanagiri and aged about 33 years, at the time of submission of the application for LPG Distributorship. The petitioner is in possession of M.B.A., Degree obtained from Madras University and has landed properties in his name in Bhuvanagiri and also has shares in the Hindu Undivided Family properties. Petitioner's father was a retired District Registrar of the Registration, Department of Government of Tamil Nadu and his mother was a retired teacher and his family has been living in Bhuvanagiri for more than 40 years. After retirement of his father, he founded Bhuvanagiri Benefit Fund Limited and the same was registered under the Companies Act, 1956 and the said Fund Company is functioning with 2,348 members, all belonging to Bhuvanagiri and nearby villages. After completion of M.B.A., Degree, the petitioner appears to have taken charge in the Benefit Fund as a Managing Director from the year 2001 and had served in that capacity for nearly 10 years.

4. As regards the norms prescribed for evaluating each of the candidates applied for LPG Distributorship by the first respondent-Corporation, various parameters have been fixed as under:-

Sl.No.	Parameter	Maximum marks individual including partnerships	Maximum marks non-individual entities
1.	Capability to provide infrastructure and facilities	35	35
2.	Capability to provide finance	35	35
3.	Educational qualifications	15	0
4.	Age of individual	04	15
5.	Experience	04	8
6.	Business ability/acumen	05	7
7.	Personality	02	0
	Total	100	100

5. Out of 100 marks prescribed, as above, 89 marks would be awarded on the strength of documents alone, as stipulated in the advertisement and remaining 11 marks would be prescribed towards interview under three heads, viz., (i) Experience - 4 marks; (ii) Business ability/Acumen - 5 marks; and (iii) personality attitude - 2 marks.

6. Admittedly, the petitioner was qualified to be awarded full 89 marks in the document category and he was awarded thus by the First Level Selection Committee. Thereafter, the petitioner was qualified for an interview on 27.9.2011. The Selection Committee consisted of three members. The petitioner was evaluated by the Selection Committee along with others who appeared for the interview. According to the petitioner, he was quite confident of being selected in view of the maximum marks awarded to him on the basis of the documents submitted by him and also on the basis of the qualification, assets, income, age etc.

7. While the matter stood thus, the first respondent-Corporation released the list of selected candidates for Bhuvanagiri through Website on 27.9.2011, in which the petitioner's name was placed second in the list and the third respondent was placed first in the list. On further

verification, the petitioner had come to know that out of 25 candidates applied for the Distributorship for Bhuvanagiri Division, he alone had secured maximum of 89 marks on the basis of fundamental qualifications on the basis of the documents submitted by the candidates. According to him, he had come to know that the third respondent had secured only 83 marks for the said category. But, however, he had managed to obtain 8.83 marks in the interview out of 11 marks as against the marks awarded to the petitioner 2.67 marks out of 11 marks in the evaluation based on interaction. Ultimately, it was found that the third respondent was awarded a total of 91.83 marks out of 100, whereas the petitioner had secured only 91.67 marks out of 100.

8. According to the petitioner, the awarding of lesser marks to the petitioner, on the basis of individual evaluation, has resulted in grave injustice in view of the fact that the petitioner was granted full marks for the fundamental evaluation and qualifications as against all other candidates participated in the selection. That being the case, the Committee which had ultimately evaluated the candidates, has manipulated, in order to deny the ultimate selection to the petitioner and granted higher marks to the third respondent, whose qualification was not on par with that of the petitioner.

9. According to the petitioner, he was merely given 0.67 marks out of 4 marks towards experience and 1.17 marks out of 5 marks towards business ability/acumen and 0.83 marks towards personality out of 2 marks, for total of 11 marks. According to him, almost all the candidates, who were interviewed not only in the Bhuvanagiri and for all other places in Tamil Nadu, have been given more marks in the personal evaluation and the petitioner alone was singled out for such grant of slender marks without reference to the vast experience he had gained by being the Managing Director of the Benefit Fund and also with reference to his Post Graduate qualification in Business Administration obtained from the prestigious University like Madras University.

10. The petitioner would submit that the third respondent was a retired Bank employee, 64 years old and was awarded 8.83 marks out of 11 marks by the Selection Committee in the personal evaluation. In the absence of any glaring differences between the petitioner's experience and his qualification and that of the third respondent, the award of the marks for personal evaluation raises great doubts as to the intention of the Committee, which was entrusted with the task of evaluating the candidates on the basis of the personal interaction alone.

11. Since the petitioner was ultimately aggrieved by his placement in the Serial Number 2 in the select list, he filed a complaint on 15.10.2011 to the first respondent in terms of Clauses 21 and 22 of the brochure of the first respondent-Corporation. In the complaint, the petitioner had raised all the above contentions, inter alia, contending that he had been unjustly discriminated by the Committee on the basis of personal evaluation. Although the petitioner had secured maximum marks on the basis of the documents submitted by him, much more than the third respondent and other candidates, on consideration of the complaint, the first respondent-Corporation passed an order on 11.1.2012, rejecting the complaint, stating that the allegations in the complaint were not established at all. The said order passed by the first respondent-Corporation is put to challenge in the present writ petition.

12. The learned counsel Shri S.Vijayakumar, appearing for the petitioner, would submit that the action of the Committee in awarding lesser marks to the petitioner and awarding more marks to the third respondent is tainted with mala fides. According to the learned counsel, that the second respondent and who was part of the Committee, who was responsible for the ultimate selection of the third respondent, has filed a counter-affidavit and therefore, the averments in the counter-affidavit have to be rejected outright, as he was biased against the petitioner being selected. He would also submit that there are number of discrepancies in the selection and he would quote an example that one Sivakumar was granted 2 marks for experience, admittedly no experience certificate was submitted by him. Even otherwise, the grant of full 2 marks to the third respondent raises a doubt on the impartiality of the Committee, since the certificate purported to have been submitted by the petitioner, issued by his former employee, State Bank of India dated 31.8.2006, was merely a complimentary letter, issued at the time of his retirement, wishing him a good health and happiness etc., of his retired life. That certificate cannot be construed to be a certificate of experience by any standard. Therefore, the Committee has misdirected itself by granting 2 full marks to the third respondent on the basis of that letter alone.

13. Be that as it may, the grant of 0.67 marks for experience to the petitioner is without any justification, when the fact of the matter was the petitioner was working as the Managing Director of the Benefit Fund and holds the M.B.A., Degree from Madras University. The learned counsel would submit that the grant of 0.67 marks to the petitioner does not disclose the basis on which such marks had been arrived at by the Committee Members and in the absence of any

basis disclosed, it should be taken that the Committee clearly bent upon excluding the petitioner from the ultimate selection, despite the fact that he had secured the maximum marks on the basis of the initial evaluation in the document category.

14. The learned counsel would further submit that as per Clause 21 of the brochure, pending disposal of the complaint, a Letter of Intent has to be kept in abeyance. The said Clause 21 of the brochure is reproduced below:-

"21. GRIEVANCE / COMPLAINT REDRESSAL SYSTEM:

An applicant who has appeared for the interview and is aggrieved by selection may send his/her complaint to the concerned Regional Office/Zone Office in which the interviewed HP GAS distributorship's location is located.

21.1. A representation/complaint shall be entertained only if it is received by the office concerned within a month from the date of declaration of result.

21.2. Efforts would be made to ensure that the representation/complaint is disposed of within 3 months from the date of receipt of response of the complaint.

21.3. Pending disposal of complaint, Letter of Intent if issued shall be kept in abeyance."

15. According to the learned counsel, notwithstanding the above Clause, as found in the brochure, a Letter of Intent was issued to the third respondent on 22.10.2011 before the disposal of the complaint on 11.1.2012. Therefore, he would point out that there was clear violation of the brochure condition and on this ground alone, the grant of Distributorship to the third respondent, is to be interfered with.

16. The learned counsel would draw the attention of this Court as to how the marks to be awarded on the basis of interaction during personal interview. According to the relevant information provided in the brochure, marks will be awarded on the quality rather than the amount of experience and the quality of experience will be judged based on the response and the questions related to experience in direct sale, home delivered products, trade of petroleum products,

hospitality/service industry etc. According to him, he was better suited than the third respondent, who was merely an employee of the Bank and retired from service and not having any other experience, whereas the petitioner had acquired wide experience as the Managing Director of the Benefit Fund and also a holder of Master's Degree in Business Administration from a prestigious University.

17. The learned counsel would submit that ultimately, difference between the third respondent and the petitioner in the overall ranking is very slender and marginal, as both have secured more than 91 marks, viz., the petitioner had secured 91.67, as against the third respondent had secured 91.83 marks out of 100. Lastly, the learned counsel would submit that if the marks have been rounded off to 92, the petitioner would have been granted the Distributorship on the basis of his securing maximum marks for qualification, age, assets, evaluation etc. In any event, the learned counsel would submit that the undue advantage gained by the third respondent on the basis of the so called subjective satisfaction of the Interview Committee, has resulted in grave miscarriage of justice by excluding the candidature of the petitioner, although he had secured maximum marks in the first category.

18. The learned counsel for the petitioner, in support of all his contentions, as narrated above, would rely on the following decisions:

The learned counsel for the petitioner would specifically draw the attention of this Court to paragraphs 21 to 24 of the order in Mrs. Amalorpavam and another vs. Chief Area Manager, Marketing Division, Indian oil Corporation Ltd [WP No.19537 of 2009 decided on 2.8.2010], wherein the learned single Judge of this Court found that award of marks in the evaluation method was incorrect and also found fault that the procedure was not properly adopted, while granting marks to the petitioner therein and, the relevant paragraphs are extracted hereunder:-

"21. In that event the next question arises as to whether by applying the evaluation method as specified in the brochure, the petitioners claim to place them in the I rank can be legitimately accepted?

22. The fact remains undisputed is that the first petitioner is individually given full five marks under the head 'income' and the petitioner jointly as partners are awarded only 2.5 marks which is the average of 5 marks

prescribed for income. It is no doubt true that the petitioners cannot be permitted to raise any grievance regarding the marks awarded to the second respondent who applied for distributorship in his individual capacity. However, what is appealed to this court is that by applying the evaluation method as given in brochure the marks awarded to the first petitioner under the head 'income' i.e., full five marks is to be automatically awarded to the partners under the same head in the joint application and in that event, the mark awarded to the petitioners as partners will go high which will automatically push the petitioners as partners to the I place. Such claim is, in my opinion, in consonance with the procedure prescribed in the brochure. Once the conclusion is arrived at that the evaluation mode adopting the average marks of the partners is not proper and once the evaluation mode as set out in the brochure is held to be applicable as per which the finance of one partner to be treated as finance of the partnership the logical conclusion to be drawn is that the marks to be awarded to the petitioners as partners under the head 'income' instead of 2.5 would be 5, which is the marks awarded to the first petitioner individually and the quantum of marks automatically increased to 92.5 and the petitioners are as partners to be consequently placed in the first position over and above the second respondent who has secured only 92 and he will have to be pushed down to the second place. If that is so, the petitioners as partners are legitimately entitled to get the dealership as sought for in this writ petition.

23. Though the learned counsel for the respondents has in the course of hearing brought to the notice of this court that one of third party individual

applicants has after revaluation awarded 91.5 marks and is placed above the petitioners as partners (who are originally awarded 90 marks) the same does not in any manner alter or affect the claim of the petitioners because had full 5 marks been awarded to them as partners the total marks secured by them comes to 92.5 and there is no difficulty in deciding the issue raised herein in the absence of the other individual.

24. The writ petition is filed after declaring the result and before the award of distributorship in favour of the second respondent herein, who is originally declared as the successful candidate. This court is while disposing of the interim injunction application pleased to observe that any award of distributorship in favour the second respondent is subject to the outcome of the writ petition. The first respondent has in para 11 at page 6 in the counter filed on 20.01.2010 categorically stated that the question of award of distributorship to any one does not arise for consideration at this stage and further norms to be allowed before even the candidate placed in the first rank is awarded the distributorship by the corporation. It is nobody's case that the distributorship is in furtherance of the order of this court actually awarded in favour of the second respondent. That being the factual position the first respondent is to be hence directed to consider the claim of the petitioner for placing him in the first rank in the light of the discussion held above in the foregoing paragraphs."

19. The learned counsel for the petitioner would rely on paragraph-14 of the yet another decision of this Court in Daisey Bai vs. The General Manager, Marketing Division, Indian Oil Corporation Ltd [2001-3-LW 349], wherein this Court has held that the selection method must be transparent and there

was no speaking order regarding the assessment and comparative merits of the candidates and also that the respondents have not stated in the counter affidavit as to how the selection had been made and how the petitioner had been overlooked, the relevant paragraph is extracted hereunder:-

"14. Counsel for the fourth respondent referred to a judgment of a Division Bench of this Court in V. Chandran v. Oil Selection Board & 3 others, 1995 (II) C.T.C. 286, for the proposition that the writ petition is not maintainable. The head note to that judgment is actually misleading in reference to paragraph 5. As per the head note, a person not included in the panel by Oil Selection Board cannot file writ petition challenging the selection as such a person is not an aggrieved person. The Division Bench did not hold so. On the contrary, the Division Bench considered the assessment of merits of the candidates and upheld the selection. However, the Division Bench directed the Selection Board and the respondent that the functioning of the respondents must be more transparent and avoiding allegations and also free from criticism and arbitrariness. Proceedings of the Board should speak for itself. They should be regular proceedings drawn up discussing the merits and each candidate and reasons for selecting the required number of candidates out of the several applicants. As the Board is headed by a retired Judge of the High Court, there should not be any difficulty in ensuring that the proceedings and the decision of the Board are free from arbitrariness and informed by reason. As a matter of fact, this judgment is against the respondents. In this case, respondents 1 to 3 claim confidentiality in their proceedings and there is no speaking order regarding the assessment and comparative merits of the candidates. There is no transparency in the selection. The respondents have not stated in their counter affidavit as to how the selection has been made and how

the petitioner has been overlooked, except stating that she did not pass in the interview. On the face of it, such a stand on the part of the respondents, especially in the light of the Division Bench Judgment and directions, cannot be upheld. On this ground also, the writ petition is liable to be allowed."

The learned counsel for the petitioner would therefore contend that in the instant case, nothing has been disclosed in the counter-affidavit filed by the Corporation as to why lesser marks have been granted to the petitioner than the third respondent and what was the basis of the assessment of the Selection Committee.

20. The Hon'ble Supreme has held in Senior Law Manager, Indian Oil Corporation Ltd vs. Guru Shakti Singh [AIR 2011 SC 1207], wherein the assigning of marks with the intention of favouring someone or excluding someone, vitiates the entire selection process. In this regard, the learned counsel for the petitioner would submit that deliberately the Selection Committee has granted lesser marks to the petitioner and thereby assigned him second rank, although he has secured the maximum marks in the fundamental qualifications on the basis of the documents produced by him.

21. The decision of the learned Division Bench of this Court in K.Murali Kannishvaran vs. Regional LPG Manager (South), Bharat Petroleum Corporation Ltd [WA (MD) No.820 of 2013 decided on 3.10.2016], does not lay down any ratio and it is mere adjudication of factual matrix of that case and the same does not advance a cause or the case of the petitioner herein.

22. In Ritu Mahajan vs. Indian Oil Corporation [2009 AIR SCW 1614], the Hon'ble Supreme Court has dealt with the factual matrix of that case and compared the relative merit of the candidates, who were claiming their right to dealership on the basis of their respective selection. However, there was no statement of law made by the Hon'ble Supreme Court in this case for it to be followed as an universal application.

23. The learned counsel for the petitioner relied on the decision of the Hon'ble Supreme Court of India in Chairman-cum-Managing Director, Indian Oil Corporation Ltd vs. Sunita Kumari [AIR 2015 SC 254], stating that allotment tainted due to extraneous considerations and the selection process stood vitiated. However, it remains to be seen that whether any extraneous considerations had weighed with the Selection Committee for allotment of distributorship to the third

respondent or was there any mala fide intention on the part of the Selection Committee for having deliberately excluded the petitioner from the award of distributorship.

24. Lastly, the learned counsel for the petitioner would draw the attention of this Court to paragraph-2 of the decision of the Hon'ble Supreme Court in Mahabir Auto Stores vs. Indian Oil Corporation [(1990) 3 SCC 752]. The learned counsel would emphasize that there must be fairness in all administrative actions, reasons must be set-fourth for any adverse action, which was the hallmark of the good Government. According to the learned counsel for the petitioner, on this case, nothing has been spelt out for assigning second rank to the petitioner in the order of merit, particularly in view of the fact that the petitioner had admittedly secured maximum number of marks in the initial selection.

25. Per contra, the learned counsel, appearing for respondents 1 and 2, would submit that there are two stages of selection. One is at the initial stage, which involved in granting marks on the basis of documents alone and another stage is personal interaction on the basis on which the personality of each of the candidates was assessed. The entire selection process, according to the learned counsel, has been foolproof, without lending any scope for any manipulation. The learned counsel would draw the attention of this Court to the contents contained in paragraph 11 of the counter-affidavit, which is reproduced below:-

"11. With regard to para 9, I submit that the selection process is based on total marks scored by the each candidate by Level-I and Level-II Committees which are totally independent. The Officers nominated for Level-I stage for a particular location shall not be nominated for Level-II stage for the same LPG Distributorship location. Also, the Coordinator nominated for safe keeping of sealed envelope containing Level-I marks handed over by the Level-I Committee members is not involved in selection process of particular location at any stage. The Coordinator will be responsible to open the envelope in the presence of 3 members' Selection Committee after completion of Interview process/award of Interview marks for all the candidates appeared on the appointed date of each advertised location."

26. According to the learned counsel for respondents 1 and 2 that in view of the above position, as explained, the question of any member of the Committee, knowing what marks the candidates secured at Level-I, does not arise at all. Both the Committees are independent and are comprised of by different Officers. Therefore, the allegation of manipulation is totally unfounded, baseless and the same is made by the petitioner only to draw the attention of this Court.

27. The learned counsel for respondents 1 and 2 would also submit that the second respondent was a Senior Officer, involved in the selection process, was the most competent person to file counter-affidavit and he has not been arrayed as a party-in-person and therefore, the allegation of the petitioner that the second respondent was not competent to file counter-affidavit is completely misconceived and the same has to be rejected outright as devoid of merits.

28. As regards the contention raised on behalf of the petitioner that Clause 21 of the brochure was violated, since the Letter of Intent was issued and when the complaint was pending with the first respondent, he would submit that the complaint was made on 15.10.2011 and the same was disposed on 11.1.2012 and though Letter of Intent was issued, it was not acted upon. But, ultimately, the appointment letter was issued only on 30.3.2012, after disposal of the complaint. He would, therefore, submit that the allegations of mala fide or bias against the officials are not specific and they are extremely vague and such allegations have no legal or factual basis, which merit consideration by this Court.

29. Shri D.Shivakumaran, learned counsel appearing for the third respondent, would submit that as per Clause 21 of the brochure, the Letter of Intent ought to be kept in abeyance during consideration of the complaint. But, it does not state that it can never be issued. Even according to the learned counsel, ultimately the appointment letter was issued only on 30.3.2012, after disposal of the complaint. Therefore, the petitioner cannot have any grievance on that count.

30. Both the counsel appearing for respondents 1 to 3 would draw the attention of this Court, a detailed order passed by the Corporation on 11.1.2012, which is impugned in the writ petition, in which every allegation contained in the complaint has been specifically addressed and answered. On direction from this Court, the original file relating to selection was also produced on behalf of respondents 1 and 2. The counsel relied on a decision of Division Bench of this Court in R.Kalaivani vs. Chairman, Indian Oil Corporation Ltd [(2010) 1 MLJ 742], and would draw the attention of this Court to paragraph-11 of the decision, which is extracted as under:-

"11. As rightly contended by the learned counsel for the 4th respondent, the appellant/writ petitioner applied for Dealership of Indane Gas based on advertisement inviting applications, which is the rule of selection. Appellant/writ Petitioner knows fully well that marks will be awarded for experience on the basis of interview and not on the basis of mere production of certificate. The appellant/writ petitioner also taken part in the selection by appearing in the interview without any demur. Having failed to get selected she has now chosen to challenge the mode of selection, particularly the award of marks under the heading 'Experience'. The said conduct of the petitioner is clearly against the principles of estoppel."

31. The learned counsel would submit that having participated in the selection and having failed to get selected, the petitioner cannot challenge the selection process. The learned counsel would also rely on the decision of the Madurai Bench of this Court in S.Maheswari vs. The Hindustan Petroleum [Indian Kanoon - <http://indiankanoon.org/doc/137453/>], wherein the learned single Judge of the Court has observed as under:

"The process of appreciating and weighing various factors, materials and rival merits is the function of the Distributor Selection Committee, which is having necessary expertise to perform its duties properly. Therefore, in my view, there cannot be any re-appreciation or re-appraisal of relevant material factors, relative qualifications and evaluation of the comparative merits of the candidates in a writ proceedings under Article 226 of The Constitution of India. As such, the proceedings of the first respondent, impugned herein, cannot be faulted with."

32. The learned counsel would, therefore, submit that evaluation of relative merits of the candidates is a subjective satisfaction of the members of the Selection Committee, unless that satisfaction is demonstrated to be extremely unreasonable, arbitrary, mala fide accompanied by unimpeachable evidence in support of such allegation, this

Court cannot re-appreciate the relative merits of the candidates.

33. This Court has given its anxious consideration to all the submissions of the learned counsels and also perused the original files and other relevant materials and the pleadings placed on record. Although, the learned counsel for the petitioner has taken pains to impress upon this Court that there was something amiss in the selection of third respondent overlooking the claim of the petitioner, ultimately, it boils down to the fact that the third respondent had secured higher marks when inter se merit was considered by the second level Selection Committee.

34. As rightly contended by the learned counsel appearing for respondents 1 and 2, the members of second level Committee have no clue about the marks secured by the candidates in the first level selection. That being the case, the question of adding more marks for the purpose of favouring a candidate or granting lesser marks for the purpose of exclusion of the candidates, cannot arise at all. Therefore, the allegation of mala fide exercise of power by the learned counsel appearing for the petitioner, does not carry much conviction with this Court. The materials, as produced, do not disclose that the Selection Committee was being influenced by any extraneous factors or the decision taken by the Committee suffers from vice of arbitrariness.

35. The evaluation of inter se merit of the candidates was on the basis of the personal assessment by the Committee members on the basis of the subjective satisfaction and the marks were allotted for the experience only on the basis of their personal evaluation with reference to the interaction of the Committee members with the candidates. Such exercise by the Committee members cannot be questioned by the petitioner herein, unless the petitioner has any clinching reason or material to assail the decision making process of the Committee.

36. In this case, though allegations of mala fide have been expressed and argued, but unfortunately, no clinching materials were produced before this Court in support of the allegations. In this regard, the petitioner has assumed himself that he had much better experience and personality compared to the third respondent and such self-appraisal or self-esteem must be supported by relevant materials and this Court cannot give credence to such pleas only on the basis of self proclamation. The Selection Committee, which is entrusted with the task of assessing the credentials of each of the candidates, this Court cannot sit in judgment over their assessment, unless the same is demonstrated to be a colourable

exercise of power and the power has been exercised with the tainted motive and arbitrarily. From the materials placed on record, this Court does not see any such discrepancy or act of mala fide on the part of the Selection Committee in preferring the third respondent to the petitioner.

37. The other contention raised on behalf of the petitioner that some other candidates have been given two marks for experience, where no experience certificate was enclosed. The said contention cannot be accepted for the simple reason that the candidate concerned has not been made as a party in this litigation and in the absence of the said candidate, being a party, this Court cannot assume anything against the said candidate. However, such attempt has been made by the petitioner only to malign the selection process by stating that all was not well with the selection. But, unfortunately, for the petitioner, such attempt is not supported by any evidence or material meriting serious consideration at the hands of this Court.

38. So also is the contention placed on behalf of the petitioner that Clause 21 of the brochure was violated. As rightly contended by the learned counsel appearing for respondents 1 and 2 that ultimately the appointment letter was issued to the third respondent only on 30.3.2012, much after the disposal of the complaint and therefore, even this allegation falls flat in the teeth of the above fact.

39. Moreover, as rightly contended by the learned counsel appearing for respondents 1 and 2 that the impugned proceedings of the Corporation dated 11.1.2012 contains well considered reasons and every point of objection raised on behalf of the petitioner, was addressed and answered. In the light of the detailed impugned proceedings, the petitioner cannot have any legitimate grievance for assigning him in the second position after the third respondent.

40. For all the abovesaid reasons, this Court has no hesitation in dismissing the writ petition as being devoid of merits and substance. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

Svn

To

1.The Deputy General Manager/
Grievance Redressal Officer,
Hindustan Petroleum Corporation Ltd.,
LPG Division, 4th Floor,
Thalamuthu Natarajan Building,
Gandhi Irwin Road,
Egmore,
Chennai-8.

2.The Senior Regional Manager,
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Petro Bhavan,
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Alwarpet,
Chennai-15.

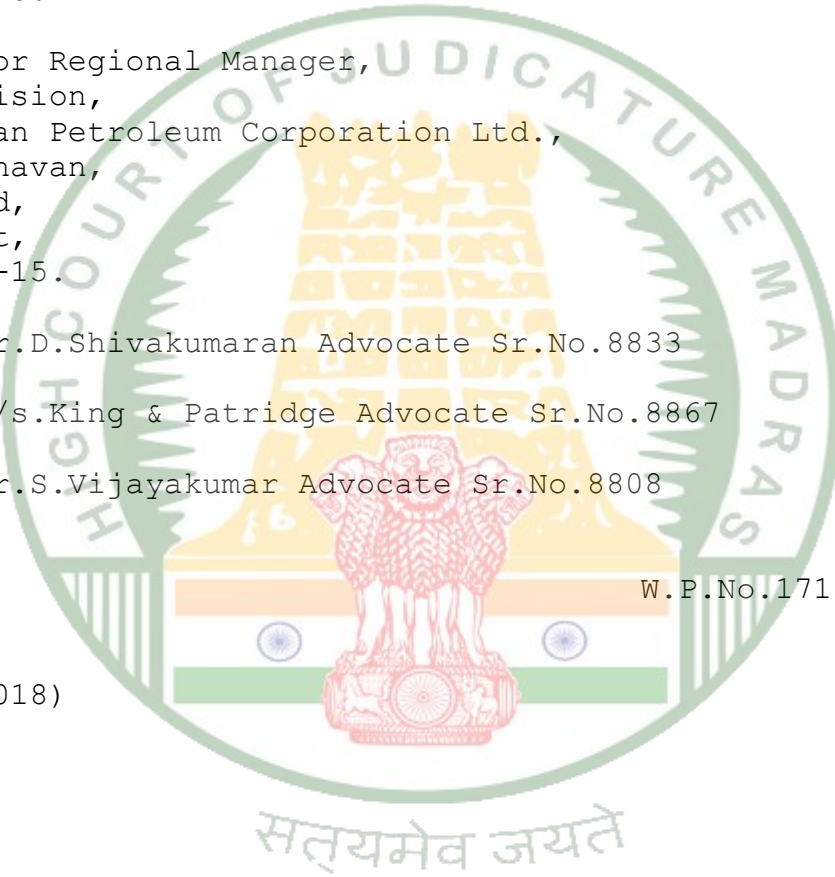
+1 CC to Mr.D.Shivakumaran Advocate Sr.No.8833

+1 CC to M/s.King & Patridge Advocate Sr.No.8867

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W.P.No.1719 of 2012

KP(07/03/2018)



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