

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.07.2018

CORAM

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

W.P.No.40005 of 2016

and

W.M.P.Nos.34066 & 34067 of 2016

E.Ilavarasi

..Petitioner

vs

1.The Senior Area Manager,  
INDIAN OIL CORPORATION LIMITED  
8/1079, Avinashi Road,  
Coimbatore 641 018.

2.The Area Manager,  
INDIAN OIL CORPORATION LIMITED  
8/1079, Avinashi Road,  
Coimbatore 641 018.

3.R.Manju

.. Respondents

(R-3 is impleaded as per the order  
dated 20.02.2017 in W.M.P.No.4006/2017)

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records on the file of the 1st respondent in proceeding REF:CBE:AO:IMP 2013-14:CBE/DP 3/2 dated 30.08.2016 and 20.10.2016 and quash the same as illegal, incompetent wholly without jurisdiction and further direct the respondents to consider the representation dated 26.08.2016.

For Petitioner : Mr.V.Raghavachari

For Respondents: Mr.Mohammed Fayaz Ali for R1 and R2  
Mr.R.Venkat Raman for R3

O R D E R

The orders of rejection dated 30.08.2016 and 20.10.2016, in relation to the grant of LPG distributorship in Dharmapuri, is under challenge in this writ petition.

2 The learned counsel appearing on behalf of the writ petitioner made a submission that the writ petitioner is an eligible candidate for getting LPG Distributorship in Dharmapuri and she is differently abled person having 3 children. The petitioner submitted an application to the respondents along with all required documents. The application was scrutinized and the petitioner was declared as qualified for the draw for selection for LPG Distributorship and accordingly, the respondents directed the petitioner to be present for the draw on 25.07.2016. The petitioner participated in the draw and was selected as a candidate for LPG Distributorship. The 1st respondent also communicated a letter on the same day confirming the candidature of the writ petitioner and accordingly, directed the petitioner to deposit Rs.25,000/- through Demand Draft in favour of the Indian Oil Corporation Limited, payable at Coimbatore. The petitioner complied with the said direction and accordingly, awaited for the final order in respect of the grant of LPG Distributorship in Dharmapuri. However, the writ petitioner received a communication stating that on Field Verification, it was found that the showroom was not located in compliance with the condition stipulated in the Brochure by the respondent/Indian Oil Corporation. However, the learned counsel appearing for the petitioner states that these are all the verifications done behind the back of the writ petitioner and the rejection order is totally non application of mind on the part of the respondent / Indian Oil Corporation.

3. It is stated in Paragraph No.8 of the affidavit filed in support of the writ petition that the petitioner had proposed to carry out the LPG Distributorship falls outside the ambit of advertised area, is false. Further it is stated that the petitioner even have an alternate place for carrying out the distribution of LPG inside Dharmapuri itself at No.37/75 Ambedkar Colony, Dharmapuri, which is located adjacent to the main bus stand, Dharmapuri as the new godown / showroom, which matches the advertisement location. This apart, it is stated that the order of rejection is issued by the 1st respondent dated 20.10.2016 rejecting the application of the petitioner on the ground that the land offered by her is not within the advertised area, is not justifiable, in view of the fact that the petitioner offered another alternate place, which is located at the adjoining town well within the highly populated area. In this regard, the representation submitted by the writ petitioner on 26.08.2016 has been ignored in spite of the offer of the petitioner for an alternate place as per the respondents requirement.

4. The learned counsel appearing for the respondents / Corporation cited the averments made out in the affidavit stating that the writ petitioner herself agreed that the original place offered in the application does not fall within the Dharmapuri Municipality limits. Further the petitioner admitted that she is willing to provide alternate land within the said limit. However no such land was made available to the Corporation within a time limit or even thereafter. Thus, the case of the writ petitioner was not considered and rejected in accordance with the terms and conditions stipulated in the brochure itself.

5. The learned counsel appearing for the petitioner made a submission that in the original notification, the area has been mentioned as Dharmapuri. Therefore, now the respondents cannot go back and say that the showroom / godown must be within the Municipal limits of the Dharmapuri. In this regard, the learned counsel for the respondent produced copy of the Brochure and the copy of the Field Inspection report. The relevant paragraph in copy of the Brochure issued in August 2013 reads as follows:

"vii Should own as on the last date for submission of application as specified in the advertisement or corrigendum (if any):  
a plot of land of minimum dimensions 25 M x 30 M (within 15 km from municipal / town / village limits of the location offered in the same State ) for construction of LPG Godown for storage of 8000 Kg of LPG in cylinders. The Plot of land for construction of godown not meeting the minimum dimensions of 25 M x 30 M will not be considered".

6. It categorically enumerates that the land of minimum dimension 25m x 30m [ within 15 km from Municipality / town / Village limits of the location offered in the same State] is required for construction of LPG Godown for storage of 8,000 kg of LPG in cylinder. Therefore, it is unambiguously made clear that the land must be within the Municipality limits that too within 15 Kms. If block is taken as a criteria within the Dharmapuri District, it consist of 8 Blocks and the area is so vast and travels more than 60 Km. Thus, the intention of the Corporation was well made out in the brochure itself that the Godown / Showroom must be within the Municipal limits of Dharmapuri. In this regard, the Field Inspection Report submitted by the competent authority of the Corporation also states as under:

The information given in the application is found to be at variance on the following items:

"1.As there is no proper approach road for the Godown land mentioned in the application and candidate also do

not any other land in candidate's name/family unit as on the last date of application submitted notarised affidavit as per Appendix P18.

2.The mentioned showroom land in the application S.F.No.368/3B6 do not belong to Dharmapuri Municipality limits as per the letter given by VAO. The candidate do not have any other land in the Municipality limits as on the last date of application in candidate's name or in the members of family unit. VAO letter enclosed as Annex-11.

3. Further there is only 15 Feet road available for showroom and also not easily accessible to customer from main road.''

7. It is contended that the case of the applicant was not rejected only on the ground of the land cited by the petitioner but on other two grounds also, her candidature was rejected. Thus, the reasons are very well found in the report submitted by the Field Officer. Therefore, the present writ petition is liable to be rejected.

8. The learned contesting counsel appearing for the 3rd respondent states that the writ petition is devoid of merits on the ground that the writ petitioner has not satisfied the requirement as fixed in the Brochure as well as in the application. Therefore her application itself has been rejected by the competent authority. Thereafter, the case of the 3rd respondent was considered for appointment as LPG Distributorship in Dharmapuri. Thus the writ petition deserves to be rejected.

9. The learned counsel appearing for the Indian Oil Corporation further contended that there was a huge delay even in approaching this Court by the writ petitioner. Advertisement for LPG Distributorship for various location in the State of Tamil Nadu was issued by the Corporation on 21.09.2013. The last date for submission of the respective application by the eligible candidates was 22.10.2013. The petitioner submitted her application in respect of Dharmapuri location under Scheduled caste category on 21.09.2013. Meanwhile there was an interim order granted by the Hon'ble Supreme Court for grant of LPG Distributorship in those areas. However, the interim order was vacated by the Apex Court on 09.05.2016. Thereafter, the eligible candidates were directed to appear for the draw. The petitioner and the 3rd respondent were the candidates, who attended the draw and the petitioner proceeded at first instance on 27.05.2016. However, during the Field Verification, it was found that the writ petitioner has not complied with the requirements as stated in the Brochure as well as in the

notification. Three reasons as cited supra, were given for rejection of candidature of the writ petitioner by the Field Verification Officer and accordingly, the application submitted by the writ petitioner has been rejected and the case of the 3<sup>rd</sup> respondent was considered for appointment as LPG Distributorship in Dharmapuri.

10. Considering the arguments, this Court is of an opinion that the conditions stipulated in the Brochure as well as in the notification are bound to be followed strictly and scrupulously by the competent authorities. There cannot be any dilution or deviation in respect of the conditions stipulated in the Brochure as well as in the notification. Undoubtedly, in the notification, the place of distribution is mentioned as Dharmapuri. However, there cannot be any interpretation, so as to expand the area beyond the Municipal limit of Dharmapuri, in view of the fact that Brochure enumerates that the place indicates the territorial jurisdiction of the Municipality or Town or Village. Thus, if a place is mentioned as Dharmapuri, it is construed that the land must fall within the municipal limits of Dharmapuri. Even otherwise also, the Court cannot presume that block may be taken as criteria for grant of LPG distributorship. The blocks consist vast area and as far as the place of Dharmapuri is concerned, there are 8 blocks and the area of operation may fall beyond 15 km. Thus, it may not be practical for one LPG Distributorship to supply cylinders to all residential areas covering the entire blocks.

11. Thus, this Court has to consider that the place of Dharmapuri mentioned indicates the Municipal limits of Dharmapuri and not the entire 8 blocks falls within the Dharmapuri. This being the interpretation to be provided, the contention of the writ petitioner that she owns a land beyond the Municipal limit, within a block cannot be considered as valid point for the purpose of considering the request of the writ petitioner for grant of LPG Distributorship. The alternate land offered by the petitioner also not provided in time, as the respondents have not called the writ petitioner for further enquiry. However, these arguments cannot have any force at this point of time, in view of the fact that the Field Verification report is to be relied upon. Neither the Corporation nor the Court can expand the scope of the conditions originally stipulated in the Brochure and in the notification. If the conditions stipulated are not complied with, then the respondents are bound to reject the application as they have done it in the present case and thus, there is no infirmity in respect of the impugned order passed in this regard by the respondents / Corporation.

12. Accordingly, the writ petition is devoid of merits and stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Principal Secretary to Government,  
School Education Department,  
Fort St.George, Chennai-600 009.

2.The Director,  
State Council for Education, Research & Training,  
College Road, Chennai-600 006.

3.The Member Secretary,  
Teachers Recruitment Board,  
College Road, Chennai-600 006.

+1cc to Mr.R.VENKATARAMAN, Advocate, S.R.No.48898  
+1cc to Mr.MOHAMMED FAYAZ ALI, Advocate, S.R.No.48865  
+1cc to Mr.V.RAGHAVACHARI, Advocate, S.R.No. 48829

W.P.No.40005 of 2016

TR(01/08/2018)

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