



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.02.2018
CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.A(MD)No. 156 of 2018
and
C.M.P(MD)No.814 of 2018

G.Bibin Gnanakumar : Appellant / Petitioner
Vs.

1.Hindustan Petroleum Corporation Ltd.,
(A Government of India Enterprise)
Rep. by its Managing Director,
Having Registered Office at
No.17, Jamshedji Tata Road,
Mumbai-400 020.

2.The Senior Regional Manager,
Hindustan Petroleum Corporation Ltd.,
'Petro Bhavan' 3rd Floor,
New No.82, Old No.47, T.T.K. Road,
Alwarpet, Chennai-600 018.

3.The Regional Manager,
Hindustan Petroleum Corporation Ltd.,
Plot No.171-172, SIDCO Industrial Estate,
Kappalur, Madurai-625 008.

: Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent,
to set aside the order dated 09.07.2014 in W.P(MD).No.10261 of 2014.

Prayer in WP(MD).10261/ 2014 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court to issue a Writ of
Certiorarified Mandamus , calling for the records pertaining to the
impugned order passed by the 2nd Respondent in Ref. No.
CHNLRO/AVK/LPG- RGGLV-11-12, dated 31.05.2014, quash the same and
direct the respondents to grant Rajiv Gandhi Gramin LPG Vitrak
(RGGLV) distributorship agency for Midalam Village to the
petitioner.

<https://hcservices.ecourts.gov.in/hcservices/>
For Appellant : Mr.R.J.Karthick
For Respondent No.2 : Mr.M.Sridhar

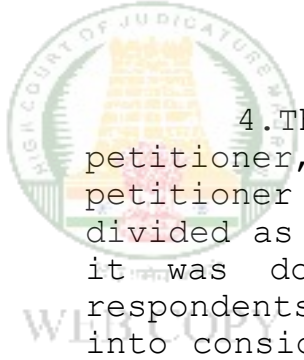
JUDGMENT

[Judgment of the Court was delivered by M.SATHYANARAYANAN, J.]

The writ petitioner is the appellant and he made a challenge to the impugned order of the second respondent dated 31.05.2014, in an by which, his candidature for LPG dealership at Midalam village, Kanyakumari District, under open category came to be rejected by citing three reasons. The writ petition after contest, came to be dismissed vide impugned order dated 09.07.2014 and making a challenge to the said order, the present writ appeal is filed.

2.The respondents namely, Hindustan Petroleum Corporation Ltd., had invited applications for LPG dealership under Rajiv Gandhi Gramin LPG Vitrak (RGGLV) Scheme, for very many places and Sl.No.86, pertains to the said dealership in Midalam Revenue Village, Vilavancode Taluk, Kanyakumari District. The petitioner in response the same, has submitted an application, specifically pointing out that he is the owner of the land admeasuring to an extend of 55 x 25 meters in Survey No.555/18 of Midalam Sundavilai, Karungal village. The said application was entertained and vide communication dated 25.01.2014, the third respondent called upon the petitioner to remit a sum of Rs.20,000/- being 10% of the security deposit of Rs.2,00,000/-, within a period of two days from the date of receipt of a copy of the order and thereafter, field verification will be done. The petitioner has also remitted the sum and the field verification was done. However, to his shock and surprise, he received the impugned order dated 31.05.2014, rejecting his candidature on the ground that his land is located in Karungal revenue village and not in the advertised location ie., Midalam and that the dimension of the land is less than the required dimension and further, no approach road is available to reach the land in Survey No.555/18. The writ petition was entertained and notices were ordered.

3.The learned Judge after taking note of the rival submissions and also a decision of the Hon'ble Supreme Court in the case of *Basavaiah (Dr.) Vs. Dr.H.L.Ramesh and others reported in (2010) 8 SCC 372* and the decision in the case of *Sanjeesh Babu K. Vs.N.K.Santhose and others reported in 2013-2 L.S.193* as well as the order dated 30.01.2011, made in W.P.No.28957 of 2011, found that admittedly, the land of the petitioner is not located in Midalam revenue village, but only in Karungal revenue village and that the appellant / writ petitioner has miserably failed to prove that the land satisfies the dimensional requirements as per the notification and in so far as approach land is concerned, though the appellant / writ petitioner has entered into a sale agreement to purchase the adjoining land, no material has been placed. The learned Judge citing the said reason, has dismissed the writ petition vide order dated 09.07.2014.



4. The learned Counsel appearing for the appellant / writ petitioner, would contend that originally, the land of the petitioner was situated in Midalam village and later on, it was divided as Midalam-A, Midalam-B, Karungal and Mathicode villages and it was done even prior to the notification and however, the respondents / Hindustan Petroleum Corporation has failed to take into consideration the said division and would further add that the land of the petitioner is located just 3 Kms away from Midalam A revenue village and as such there is no impediment to consider his application.

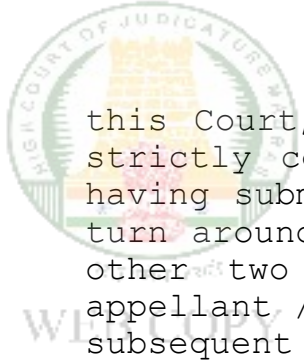
5. Insofar as other two reasons cited in the impugned order is concerned, the learned Counsel appearing for the appellant / writ petitioner would submit that the appellant / writ petitioner has also purchased lands to make good the dimension of the land as well as the approach road and as such the said application can be directed to be considered favourably and appropriate orders may be directed to be passed.

6. In response to the said submission, the learned Counsel appearing for the respondents would submit that the appellant / writ petitioner is to satisfy the requirements prevailing as on the date of the notification and also draw the attention of this Court to the revenue records and would submit that the land of the petitioner is located in Karungal village and not in Midalam-A or Midalam-B village. Insofar as the dimension of the land or approach road is concerned, admittedly, the appellant / writ petitioner claims to have purchased the adjoining land and it cannot be taken into consideration for the reason that it may lead to other applicants claiming rights. Further, the learned Judge applying correct legal position and consideration of the factual aspects, rightly dismissed the writ petition and prays for dismissal of this writ appeal too.

7. It is also the submission of the learned Counsel appearing for the appellant / writ petitioner that on account of the pendency of this writ petition, fresh notification for awarding LPG dealership in respect of Midalam-A, Midalam-B villages is yet to be issued and depending upon the the result of this writ appeal further process would go on and prays for dismissal of this writ appeal.

8. This Court has considered the rival submissions and perused the materials placed before it.

9. The appellant / writ petitioner is under obligation to fulfil the requirements in terms of the notification and admittedly, the land of the petitioner is located in Karungal village and not in Midalam-A or Midalam-B villages. Insofar as the fulfilment of the required dimension as well as the approach road is concerned, the appellant / writ petitioner claims to have purchased the land subsequent to the said notification and according to him, the said deficiencies had also been made good. In the concerned opinion of



this Court, the appellant / writ petitioner is under obligation to strictly comply with the requirements as per the notification and having submitted his candidature as per the notification, he cannot turn around and complain about the said requirement and insofar as other two deficiencies are concerned, it is the claim of the appellant / writ petitioner, that it was made good on account of the subsequent purchase of the adjoining lands. In the concerned opinion of this Court, it may not come to the aid of the appellant / writ petitioner. In the concerned opinion of this Court, the learned Judge has correctly applied the ratio laid down in the above cited decisions and factually also found that the appellant / writ petitioner did not fulfil the required criteria.

10.This Court finds no error or infirmity in the reasons assigned by the learned Judge for dismissing the writ petition.

11.In the result, the writ appeal is dismissed, confirming the order made in W.P.(MD)No.10261 of 2014 dated 09.07.2014.

12.At this juncture, the learned counsel appearing for the appellant / writ petitioner would submit that he may be permitted to submit a representation for refund of the amount deposited, on account of the fact that his candidature has been rejected. If the appellant / writ petitioner is advised so and if it is available under law, he is at liberty to submit a representation in this regard to the third respondent within a period of two weeks from the date of receipt of a copy of this order and upon receipt of the same, it is open to the third respondent to consider the same on merits and in accordance with law and pass orders within a further period of three weeks thereafter and communicate the decision taken to the appellant / writ petitioner. However, in the circumstances of the case, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CSII)

/True Copy/

Sub-Assistant Registrar

+One cc to Mr.R.J.Karthick, Advocate, SR.No.49890

+One cc to Mr.M.Sridhar, Advocate, SR.No.49918

rmk/MR

RL/3C/4P/SKN/RSK/SAR2/7/3/2018

JUDGMENT MADE IN
W.A(MD)No. 156 of 2018
and
C.M.P(MD)No.814 of 2018