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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 13.02.2018

DELIVERED ON : 27.02.2018

CORAM:

**THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN  
AND  
THE HONOURABLE MRS.JUSTICE R.HEMALATHA**

W.A. (MD) No.1276 of 2015  
and  
M.P (MD) Nos.2 and 3 of 2015

J.Thulasidasan

... Appellant/  
Petitioner

Vs.

1.The Government of India,  
represented by  
The Principal Secretary,  
Ministry of Petroleum,  
New Delhi.

2.The Chief Regional Manager,  
Hindustan Petroleum Corporation Limited,  
Petro Bhavan, 3<sup>rd</sup> Floor, New No.82,  
Old No.47, TTK Road,  
Alwarpet, Chennai - 600 018.

3.The Senior Regional Manager,  
Hindustan Petroleum Corporation Limited,  
TTK Road, Alwarpet,  
Chennai - 600 018.

4.P.Arvind

... Respondents/  
Respondents

PRAYER: Appeal filed under Clause 15 of the Letters Patent, against the order passed in W.P(MD)No.4084 of 2014, dated 30.09.2015 and allow the Writ Appeal .

Prayer in WP(MD). 4084/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned order in Ref. CHNLRO/RH/LPG-IMP-2013-14, dated 25.02.2014 on the file of the Respondent No.2 and quash the same as illegal and consequently to direct the Respondent No.2 to award Rajiv Gandhi Gramin LPG Vitrak (RGGLV) at Devanadanapatti (TP), Theni District, to the petitioner within the time stipulated by this Honourable Court.



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For Appellant

: Mr.M.Ajmal Khan,  
Senior Counsel  
for Mr.K.Appadurai

For Respondents

: Mr.M.Sridhar for R.2 & R.3

Mr.M.Saravanan for  
Mr.R.Subramanian for R.4

\* \* \* \* \*

JUDGMENTM.SATHYANARAYANAN, J.

The appellant is the writ petitioner and he made a challenge to the letter/order dated 25.02.2014, passed by the second respondent, in and by which, his application for award of LPG Dealership under Rajiv Gandhi Gramin LPG Vitrak (RGGLV), came to be rejected.

2. The writ petition, after contest, came to be dismissed on merits on 30.09.2015 and challenging the same, the present writ appeal is filed.

3. The appellant/writ petitioner submitted an application for selection and award of LPG Dealership under RGGLV and he was issued with a call letter dated 04.11.2013 by the second respondent informing him that he was qualified for draw for selection of RGGLV and was required to be present on 18.11.2013 at 09.30 a.m. The appellant/writ petitioner was present in person on that day and the second respondent, vide communication, dated 18.11.2013, informed him that he was the successful candidate and was advised to remit a sum of Rs.20,000/- (Rupees Twenty Thousand only) being 10% of the Security Deposit of Rs.2,00,000/- (Rupees Two Lakhs only) within three working days from the date of receipt of the said letter and the appellant/writ petitioner has also complied with the same. An official attached to the respondent Corporation had done a Field Verification on 09.01.2014 and according to the appellant/writ petitioner, he was satisfied with the documents. The appellant/writ petitioner was awaiting for the award of LPG Dealership and to his shock and surprise, the second respondent has sent the impugned communication dated 25.02.2014, which was received by him on 03.03.2014, rejecting his candidature by citing two grounds and by making a challenge to the same, the said writ petition was filed and it was entertained and notices were ordered.

4. The second respondent has filed the counter affidavit stating, among other things, that as per the Brochure, the applicants must submit all their credentials as on the last date of submission of the application on 05.07.2013 and the appellant/writ



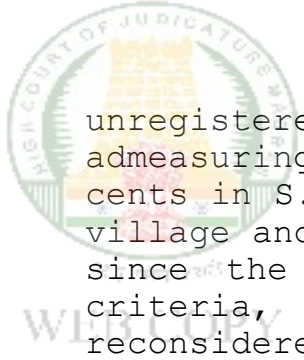
petitioner failed to do so. Thereafter, the appellant/writ petitioner has requested to take into consideration the land comprised in S.No.2353/2 on the ground that it belongs to his father and he is an undivided family member. It is the stand of the second respondent that the said document came into being after the last date for submission of the application and prayed for the dismissal of the writ petition.

5. The learned Judge, upon hearing the rival submissions and consideration of the materials placed on record and also taking into consideration the decisions in *V.Chandran v. Oil Selection Board, Madras* reported in (1995) 2 MLJ 458; *K.Vinod Kumar v. S.Palanisamy and others* reported in AIR 2003 SC 3171; *K.Indira v. Union of India* reported in (2006) 3 MLJ 492 and *R.Sathiyar v. Senior Area Manager, Indian Oil Corporation Ltd.*, [W.P(MD)No.7433 of 2009, decided on 12.08.2009] as well as an yet another decision in *G.Bibin Gnanakumar v. Hindustan Petroleum Corporation Ltd.*, reported in CDJ 2014 MHC 3147, found that the Brochure and other materials placed on record would make it clear that the candidature of the appellant/writ petitioner was rejected by the respondent Corporation only based on the reasons indicated in the impugned communication of the second respondent dated 25.02.2014 and at no point of time, the appellant/writ petitioner has alleged *mala fides*. The learned Judge further observed that the appellant/writ petitioner has failed to prove his claim, especially, on the ground of *mala fides*, arbitrariness and unreasonableness in the selection process on the part of the respondent Corporation and citing the said reasons, dismissed the said writ petition, vide impugned order dated 30.09.2015 and hence, this writ appeal.

6. Mr.M.Ajmal Khan, learned Senior Counsel appearing for the appellant/writ petitioner would submit that the impugned communication of the second respondent dated 25.02.2014 cites two reasons, i.e., (a) *On field verification, the approach road to the proposed land for godown site shown by the candidate owned by third party and agreement in terms of affidavit made is not registered, hence cannot be considered;* and (b) *Alternate land owned by candidate's father effective Feb. 2014, i.e. after the date of submission of application and hence cannot be considered.*

7. It is the submission of the learned Senior Counsel appearing for the appellant/writ petitioner that since the original land identified by the appellant/writ petitioner, according to the second respondent, lacks approach road, he has substituted with the land of his father in S.No.2353/2 admeasuring to an extent of 25.50 areas at Devathanapatti, Periyakulam Taluk, Theni District and since he is a co-owner of the said property, there cannot be any impediment for the respondent Corporation to take into consideration the said land.

8. Insofar as the lack of approach road is concerned, it is the submission of the learned Senior Counsel appearing for the appellant/writ petitioner that his paternal aunt has executed an

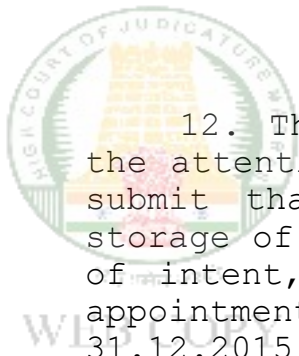


unregistered agreement dated 28.06.2013 for use of her land admeasuring to an extent of 59 cents in S.No.1994/3B, 1 acre 38 cents in S.No.1995/1 and 1.99 cents in S.No.1995/2 of Devathanapatti village and also the common pathway admeasuring 25 X 312 sq. ft. and since the appellant/writ petitioner has fulfilled all necessary criteria, the rejection of his candidature ought to have been reconsidered by the second respondent and he should have been awarded LPG Dealership.

9. Per contra, the learned Standing Counsel appearing for the respondents 2 and 3 has drawn the attention of this Court to the counter affidavit filed by the second respondent in the writ petition and would submit that the last date for submission of the application was on 05.07.2013 and admittedly, according to the appellant/writ petitioner, he claims to be only a co-owner of the land in S.No.2353/2 which stands in the name of his father and it cannot be construed as a clear title of the said land in favour of the appellant/writ petitioner. The claim of the appellant/writ petitioner that he has given the land owned by his paternal aunt as an approach to his land cannot be considered for the reason that it is an unregistered agreement and as per Clause 6(h) coupled with Clause 14, the plot of land for construction of godown not meeting the minimum dimensions of 21 M x 26 M will not be considered and the plot of land or ready LPG cylinder storage godown should be freely accessible through all weather motorable approach road (road or private road connecting to the public road) and in case of private road connecting to the public road, the same should be owned by the applicant/member of family as defined in sub-clause h(iii) below in the ownership criteria for land and in case of ownership/co-ownership by family member(s) in respect of such private road, consent letter from respective family member(s) will be required.

10. The learned Standing Counsel appearing for the respondents 2 and 3 also pointed out that as per Clause 6(h)(iii), 'Own' means having clear ownership title of the property in the name of applicant/family member(s) of the 'Family Unit' and admittedly, the appellant/writ petitioner did not fulfil the said criteria and mere intimation that he is the successful candidate will not confer him with any right unless there is a positive report of Field Verification in his favour. However, the appellant/writ petitioner has failed to fulfil the said mandate cast upon him and therefore, his candidature came to be rejected rightly.

11. It is also the submission of the learned Standing Counsel appearing for the respondents 2 and 3 that the fourth respondent has been selected and he was also issued with a letter of intent on 01.10.2015 and he commenced the construction of the godown and also commenced his operation and therefore, at this distant point of time, the impugned order passed in the writ petition may not be interfered with and prayed for the dismissal of this writ appeal.



12. The learned Counsel for the fourth respondent has invited the attention of this Court to the typed set of documents and would submit that the fourth respondent has been granted licence for storage of LPG cylinders and it expires on 30.09.2025 and the letter of intent, dated 01.10.2015, was also followed by the letter of appointment for RGGLV at Devathanapatti under open category dated 31.12.2015, issued by the second respondent and has also commenced his operation and hence, prayed for the dismissal of this writ appeal.

13. This Court paid it's best attention to the rival submissions and perused the materials placed before it.

14. It is relevant to extract the following Clauses of the Brochure for Selection of Rajiv Gandhi Rural LPG Distributors - RGGLV - applicable to all locations advertised/re-advertised with effect from April 2013:

Clause 6(f):

"(f). Fulfil Multiple dealership/distributorship norm

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'Family Unit' in case of married person/applicant, shall consist of individual concerned, his/her Spouse and their unmarried son(s)/daughter(s). In case of unmarried person/applicant, 'Family Unit' shall consist of individual concerned, his/her parents and his/her unmarried brother(s) and unmarried sister(s). ..."

Clause 6(h):

"h. (i) Should own:

a plot of land of minimum dimensions 21 M x 26 M for construction of LPG Godown for storage of 5000 Kg of LPG in cylinders at the advertised RGGLV location. The plot of land for construction of godown not meeting the minimum dimensions of 21 M x 26 M will not be considered.

Or

a ready LPG cylinder storage godown of 5000 Kg capacity at the advertised RGGLV location.

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The plot of land or ready LPG cylinder storage godown should be freely accessible through all weather motorable approach road (road or private road connecting to the public road). In case of private road connecting to the public road, the same should be owned by the applicant/member of family as defined in h (iii) below in the ownership criteria for land. In case of ownership/co-ownership by family member(s) in respect of such private road, consent letter from respective family member(s) will be required.



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(iii) Own means having clear ownership title of the property in the name of applicant/family member(s) of the 'Family Unit' as defined in multiple dealership/distributorship norm or land belonging to parents & grandparents (both maternal and paternal) of the applicant as on the last date for submission of application as specified in the advertisement or corrigendum (if any). In case of ownership/co-ownership by family member(s) as given above, consent in the form of a Notarized Affidavit from the family member(s) will be required."

Clause 10:

"10. FIELD VERIFICATION OF CREDENTIALS (FVC)

10.1. Verification of the information given in the application by the applicant with the original documents and with the issuing authorities wherever required is called Field Verification of Credentials (FVC).

10.2. Field verification will be carried out for the selected candidate as per laid down procedure. If in the FVC, the information given in the application by the applicant is found to be correct. Letter of Intent (LOI) will be issued with the approval of competent authority.

10.3. If in the FVC, it is found that information given in the application is at variance with the original documents and that information affects the eligibility of the candidate, then a letter would be sent by Registered Post AD / Speed Post pointing out the discrepancy. Candidature of selected candidate in such a case will be cancelled and 10% of security deposit, i.e. Rs.20000/- (Rupees Twenty thousand) deposited by the selected candidate before FVC will be forfeited if false/incorrect/misrepresented information has been given in the application."

Clause 14:

"14. BASIC FACILITIES REQUIRED FOR OPERATION OF RGGLV

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The plot of land or ready LPG cylinder storage godown should be freely accessible through all weather motorable approach road (public road or private road connecting to the public road). In case of private road connecting to the public road, the same should belong to the applicant/member of family as defined in the ownership criteria for land. The land should be plain, in one contiguous plot, free from live overhead power transmission or telephone lines. Canals/Drainage/Nallahs should not be passing through the plot. The land for



construction of LPG godown should also meet the norms of various statutory bodies such as PWD/Highway authorities/Town and Country Planning Department etc. ..."

15. The last date for submission of the application was admittedly on 05.07.2013. In the impugned proceedings, the second respondent has indicated that on field verification, the approach road to the proposed land for godown site shown by the appellant/writ petitioner was owned by a third party and agreement was also not registered and the alternate land shown by the appellant is owned by his father with effect from February 2014, i.e, after the submission of the application and therefore, citing the said reasons, the candidature of the appellant/writ petitioner came to be rejected.

16. It is brought to the knowledge of this Court that at the time of submission of the application, the appellant/writ petitioner was unmarried and as per the definition of 'Family Unit' given in the Brochure, in case of unmarried person/applicant, the 'Family Unit' shall consist of individual concerned, *his/her parents and his/her unmarried brother(s) and unmarried sister(s)*.

17. As per Clause 6(h)(iii), 'Own' means having clear ownership title of the property in the name of the applicant/family member(s) of the 'Family Unit' in multiple dealership/distributorship norm or land belonging to parents & grandparents (both maternal and paternal) of the applicant as on the last date for submission of application as specified in the advertisement or corrigendum (if any).

18. According to the appellant/writ petitioner, he has produced patta bearing No.20 issued in favour of his father, namely, Jeyapal in respect of the land admeasuring to an extent of 25.500 ares of land in S.No.2353/2 of Devathanapatti village. Admittedly, no title deed or other documents of sterling quality have been produced to show that his father is the owner of the property, but only a patta was produced. It is a settled position of law that patta is not a document of title and therefore, the said document cannot be construed as a document evidencing clear ownership of title of the property in favour of the appellant/writ petitioner and even according to the appellant/writ petitioner, he is the co-owner of the said property. It is also not made clear as to whether the appellant/writ petitioner is the sole legal heir or other legal heirs are there.

19. As regards the approach is concerned, the appellant/writ petitioner got an unregistered agreement dated 28.06.2013 from his paternal aunt.

20. As per Clause 6(h), it should be owned by the applicant or member of the family. As already pointed out, the appellant/writ



petitioner, at the time of submission of the application was unmarried and his paternal aunt would not fall under the definition of 'Family Unit'.

21. Therefore, this Court is of the considered view that the reasons assigned in the impugned order of rejection cannot be faulted with.

22. It is also pertinent to point out at this juncture that the fourth respondent has been issued with a letter of intent dated 01.10.2015 and followed by the letter of appointment dated 31.12.2015 issued by the third respondent and he has also commenced his operations and as on date, he is running a Gas Agency at Devathanapatti. The learned Judge has also pointed out that the appellant/writ petitioner has failed to prove *mala fides*, arbitrariness and bias as against the respondents 2 and 3.

23. This Court is also of the considered opinion that since the appellant/writ petitioner failed to fulfil the essential conditions and criteria, his candidature came to be rejected rightly and finds no infirmity in the impugned order passed by the second respondent and also finds no merit in this writ appeal.

25. In the result, this writ appeal is dismissed. However, in the facts and circumstances of the case, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub-Assistant Registrar

To  
The Principal Secretary,  
Government of India,  
Ministry of Petroleum,  
New Delhi.

+One cc to M/s.R.Subramanian, Advocate, SR.No.51709  
+One cc to M/s.M.Sridhar, Advocate, SR.No.51532

rsb  
RL/4C/8P/KK/SAR4/8/3/2018

JUDGMENT MADE IN  
W.A. (MD) No.1276 of 2015  
and  
M.P (MD) Nos.2 and 3 of 2015