



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

AND

THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

W.A. [MD] .Nos.1512 and 1513 of 2011

and

M.P. (MD) No.1 of 2011

in

W.P. [MD] .Nos.13513 of 2010 and 4514 of 2011

G.Bose

.. Appellant/Petitioner
in both the W.Ps.

Vs.

1.The Area Marketing Manager,
Tamil Nadu & Pondy,
Bharat Petroleum Corporation Ltd.,
No.1, Ranganathan Gardens,
11th Main Road, Anna Nagar, Chennai.

2.The Territory Manager (Retail),
Bharat Petroleum Corporation Ltd.,
B.G.Goods Shed Road,
Tirunelveli - 627 358.

3.The Selection Committee,
Bharat Petroleum Corporation Ltd.,
B.G.Goods Shed Road,
Tirunelveli - 627 358.

4.The District Collector,
Thoothukudi District,
Thoothukudi.

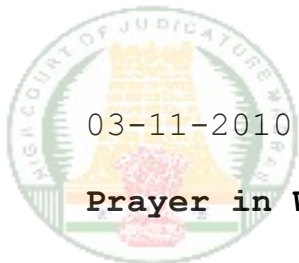
5.Mr.J.Jegadeesh

... Respondents / Respondents
in both the W.Ps.

COMMON PRAYER: Appeals are filed under Clause 15 of the Letter Patent Act, to set aside the common order of the learned single Judge of this Court, dated 10.11.2011 in W.P. (MD) Nos.13513 of 2010 and 4514 of 2011.

Prayer in WP(MD) . 13513/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF MANDAMUS, by directing the Respondents 1 and 2 not to allot the Retail outlet at Kalugumalai, Tuticorin District to the 5th Respondent based on the marks awarded in the interview dated



03-11-2010 for the vacant site for locating the retail outlet.

Prayer in WP(MD). 4514/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARIFIED MANDAMUS, by calling for the records of the 3rd Respondent Committee awarding performance marks in the interview on 03-11-2010 in respect of the 5th Respondent and quash the same and consequently direct the Respondents 1 to 3 to allot the retail outlet at Kalugumalai, Thoothukudi District to the Petitioner.

For Appellant in
both the W.Ps.

: Mr.M.Suresh Kumar

For R4
(Both the w.ps.)
For RR1 to 3 & 5
(Both the w.ps.)

: Mr.M.Muthu
Additional Government Pleader
: No Appearance

COMMON JUDGEMENT

[Judgement of the Court was delivered
by **K.RAVICHANDRABAABU, J**]

The appellant before us is the writ petitioner. The respondent Corporation called for applications from eligible persons for grant of dealership for running petroleum retail outlet in Kalugumalai, Kovilpatti Taluk, Tuticorin District.

2.The writ petitioner and fifth respondent participated in the selection process and offered their respective lands. The respondent Oil Corporation selected the fifth respondent for grant of dealership. Challenging such selection, the writ petitioner filed W.P.(MD)No.4514 of 2011. Consequently, he has also sought for a direction to the respondents 1 to 3 to allot the retail outlet to him. Earlier to the filing of the above writ petition, the very same petitioner filed W.P.(MD)No.13513 of 2010 for a Mandamus directing the Oil Corporation not to allot the retail outlet to the fifth respondent.

3.Both the writ petitions were taken up together and the learned single Judge passed a common order on 10.11.2011. Though the learned Judge allowed the writ petitions by observing that the whole process of selection is vitiated, on account of interpreting the requirement prescribed in Column No.9 of the advertisement and consequently set aside the selection of the fifth respondent, has however, not granted consequential relief to the writ petitioner for selecting him to the dealership. On the other hand, the learned Judge directed the respondents 1 to 3 to issue fresh advertisement both in English and Tamil dailies in respect of the area indicating the minimum dimensions that is acceptable for the location of Petrol Bunk and also the preferential dimensions. The learned Judge also



granted liberty to both the petitioner and the fifth respondent to take part in the fresh selection process.

4. The fifth respondent has not chosen to challenge the said order. However, the writ petitioner filed the present writ appeals aggrieved only against his non-selection.

5. Though the learned counsel appearing for the appellant sought to contend that the learned Judge, having chosen to set aside the selection of the fifth respondent by allowing the writ petitions, ought to have directed the Oil Corporation to select the petitioner, we are not inclined to accept such contention of the appellant on the simple reason that there was clear and categorical finding rendered by the learned single Judge that there was discrepancy in the advertisement given by the respondent Oil Corporation in respect of English version and Vernacular version in the daily news papers, more particularly, in respect of the dimensions of the property prescribed therein in Column No.9. The learned Judge pointed out that while the English advertisement makes it very clear that it is only preferential, such indication is not available in the advertisement given in the Tamil dailies. Therefore, the learned Judge found that the person, who has not read the advertisement in English version, would not have been in a position to participate, had he not got the land with the dimensions of 35 x 40. When such finding is given by the learned Judge with regard to the discrepancy in the very advertisement given by the Oil Corporation between English and Tamil version, we do not find any reason to interfere with the order of the learned single Judge in directing the Oil Corporation to go for a fresh selection by giving fresh advertisement in the daily news papers. When liberty is given to the petitioner as well as the fifth respondent to participate in the fresh selection, we do not find that the rights of the petitioner is in any way affected or prejudiced. Accordingly, we find no ground to interfere with the order of the learned single Judge.

6. In the result, these Writ Appeals fail and the same are dismissed. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

Sd/-

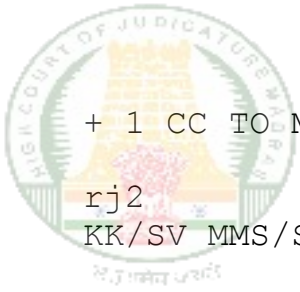
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

The District Collector,
Thoothukudi District,
Thoothukudi.



+ 1 CC TO MR.M.Suresh Kumar , ADVOCATE IN SR No. 62945

rk2

KK/SV MMS/SAR 1/17/05/2018/4P/3C

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