

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.17272 OF 2018

ORDER :

This petition is filed for a writ of *Mandamus* declaring the action of the respondents in allotting the LPG dealership of Peddaharivanam Village, Adoni Mandal, Kurnool District to the 5th respondent as illegal and arbitrary and against to the principles of natural justice and for a consequential direction to the respondents to set aside the allocation of dealership to the 5th respondent.

The case of the petitioner is that he submitted application for appointment of LPG distributorship in pursuance to the advertisement given in Eenadu paper for the area of Peddaharivanam Grampanchayat, Adoni Taluk, Kurnool district, along with application fee and relevant documents; that thereafter the respondents have invited the petitioner to the online computerized draw of lots held on 24.01.2018 to be present along with a photo identity card and that accordingly the petitioner present at the said premises. On the said date the 5th respondent was awarded with the LPG distribution ship. The grievance of the petitioner is that as per the clause contained in the brochure for selection of LPG distributorship, June 2017, the person should be ordinarily a resident of the said village or the revenue village which comprise hamlet of the said village, but the 5th respondent is not a resident of

Peddaharivanam Village; and that by creating fake certificate in collusion with respondents 3 and 4 claiming that he is a resident of Peddaharivanam Village for the past 10 years, the 5th respondent obtained the LPG dealership. After coming to know the same, the petitioner made a complaint to the 2nd respondent on 21.02.2018 for which the petitioner received a letter from the competent authority stating that the 3rd respondent has certified that the 5th respondent is a resident of Peddaharivanam. It is also stated that the petitioner obtained the ration card of the 5th respondent which shows that the 5th respondent is a resident of Hateli line, SKD Colony, Ward 21 (V), Adoni, Kurnool district; that the 5th respondent and other members were receiving the ration from the Fair Price Shop at Adoni and that on a perusal of the voter ID of the 5th respondent issued by the Election Commission of India shows two different numbers given wherein one voter ID shows that he is a resident of 6/13, Peddaharivanam, Adoni, Kurnool District, with voter ID No.LKS 4430575 and the other voter ID shows that with the same address as RTM 1442029. A perusal of the voters list also shows that the H.No.6-13 stands in the name of Mallikarjuna Swamy, but not in the name of the 5th respondent. It is further stated that as on the date of issuance of advertisement the 5th respondent is a resident of Adoni and that after the 5th respondent has become successful in the online draw, then in collusion with respondents 3 and 4, he created fake certificates showing that he is a resident of Peddaharivanam, residing at

H.No.6/13, which actually stands in the name of one Mallikarjuna Swamy. Aggrieved by the action of the respondents in allotting the LPG dealership to the 5th respondent contrary to the clauses stated in the advertisement, present writ petition is filed.

Respondents 1 and 2 filed counter stating that field verification of credentials was carried out by a committee and as per the report of the said committee, selected candidate was the resident of Peddaharivanam Village; that the Tahsildar of the Peddaharivanam Mandal issued the Residence Certificate stating that the 5th respondent is residing in Peddaharivanam Panchayat since 16.06.2010; that the 5th respondent also produced the Residence Certificate issued by respondents 3 and 4 stating that he is the resident of Peddaharivanam since 2010; that the election identity card and Aadhar card produced by the 5th respondent show that the 5th respondent belongs to Peddaharivanam Gram Panchayat. It is also stated that the 5th respondent also submitted a notarized affidavit dated 06.03.2018 stating that he is a resident of Peddaharivanam Gram Panchayat and that in case it is detected at any stage that he is non-resident of Peddaharivanam Gram Panchayat, his candidature for LPG distributorship can be rejected. It is further stated that as per the Unified Guidelines Policy 2017 under which the distributorship finalized for the location at Peddaharivanam, the respondent No.5 fully met the eligibility

criteria and possessing the necessary land for construction of godown-cum-show room in the advertised location and also the respondent obtained the necessary approvals for the construction of godown from the Department of Explosives i.e. PESO, Visakhapatnam on 19.04.2018. It is also stated that in compliance to the order dated 15.06.2018 passed by this Court, the 5th respondent was called at Indian Oil Corporation Limited, Vijayawada on 19.06.2018 and a copy of unsigned ration card produced by the petitioner before this Court was shown to him, for which he replied that he never seen such a ration card and that the ration card issued in his father's name had a joint photograph of 7 family members and that the said unsigned ration card shown to him had separate photographs of five people. When the two voter ID cards produced by the petitioner before this Court which did not bear either the seal or signature of issuing authority, were shown to the 5th respondent and was questioned about it, he replied that both the cards appeared to be fake as he was in possession of original Voter ID card bearing No.LKS 4430575 which had the hologram of Government of A.P., as well as the signature of the Electoral Registration Officer. He also produced the said original Voter ID card for inspection which was found to have the hologram. It is further stated that the 5th respondent was resident of Peddaharivanam Village and that if at any point of time it was detected that he was not a resident of Peddaharivanam Village, Indian Oil

Corporation was free to take any action as deemed fit including withdrawal of LOI/Termination of Distributorship.

The 3rd respondent also filed counter affidavit stating that as the petitioner produced Aadhar Card and Voter ID showing that he is residing in H.No.6-13 of Peddaharivanam Village, the VRO recommended for issuance of Residence Certificate; that thereafter Residence Certificate dated 28.02.2018 was issued by the 3rd respondent to the 5th respondent. It is stated that after receipt of interim order of this Court dated 15.06.2018, a Memo dated 09.07.2018 was issued to the 4th respondent to conduct enquiry about the residential status of respondent No.4; that the 4th respondent has enquired the house owner of 5th respondent Smt.J.Shivaleela, w/o.J.Mallikarjuna Swamy, who stated in their statements that the 5th respondent has taken House No.6-13 on rent and used to pay monthly rent at Rs.2,000/-; that the 5th respondent never stayed in the said house. The villagers of Peddaharivanam have also stated that the 5th respondent is not resident of Peddaharivanam Village. It is further stated that the 5th respondent had submitted Aadhar which he had recently got transferred from Adoni to Peddaharivanam and also obtained a Lease Deed of a room of the upstairs portion bearing H.No.6-13, situated in Peddaharivanam Village, Adoni Mandal and that the lease is for the period commencing from 05-09-2016 to 06.09.2019 i.e. for a period of three years; and that by suppressing the true

material facts, the 5th respondent has obtained the Residence Certificate; and that steps will be taken for cancellation of the standard residence certificate issued to the 5th respondent by following due process of law. He denied the allegation that the 3rd and 4th respondents issued the Residence Certificate by colluding with the 5th respondent. It is further stated that the name of the 5th respondent is not found in the Electoral Roll of Village of Peddaharivanam; that registration in Electoral Roll is a continuous process; that subsequently i.e. after voters list of Adoni Constituency published as on 01.01.2018, the 5th respondent got his name entered in the Electoral Roll of Peddaharivanam Village with the help of Aadhar and other lease documents.

Regarding Ration card bearing No.WAP 138303900028, the 3rd respondent states that the said ration card is existing in Adoni Municipality which shows that father of 5th respondent is head of the family and the 5th respondent is one of the members. The 4th respondent has submitted his report dated 17.07.2018 stating that the 5th respondent is not residing in Peddaharivanam Village but paying house rent to the owner of the house; and that steps will be taken for cancellation of residence certificate issued by this respondent to the 5th respondent by following due process of law.

The 5th respondent filed counter stating that in pursuance of the orders passed by this Court on 15.06.2018 the

respondent 1 and 2 called him regarding confirmation of his residence at Peddaharivanam Village and conducted proceedings on 19.06.2018 wherein he has proved that he is residing in the said village since 2011 by filing documentary proof; that his mother is the resident of Peddaharivanama village having purchased 11 cents of land in Sy.No.158 under registered sale deed No.3722 of 2003, dated 17.11.2003; that since then he along with his mother residing in the said village and his mother gifted the said property to him and that he obtained a rented house in the said village on oral lease, however in the year 2016 his landlord executed lease deed, thus he is a resident of the said village and prayed to dismiss the writ petition.

Heard learned counsel for the petitioner who submits that though the 5th respondent is not the resident of advertised location, the 1st and 2nd respondents are trying to allot the dealership to the 5th respondent. Even after counter is filed by 3rd respondent who clearly submits that the 5th respondent is not the resident of Peddaharivanam Village which is advertised location, the 1st and 2nd respondents should have cancelled the allotment and take further steps.

On the other hand Sri Mayur Reddy, learned Standing Counsel for respondents 1 and 2 submits that they only relied on the certificate issued by the MRO.

Learned counsel for the 5th respondent submits that the 5th respondent is the resident of Peddaharivanam Village, as such allotment of dealership to 5th respondent cannot be faulted and that the 5th respondent is also having lands in the said village.

In this case it is to be seen that the 3rd respondent in the counter affidavit clearly stated that basing on the documents i.e. Aadhar Card and Voter ID produced by the 5th respondent, Residence Certificate was issued to the 5th respondent; that in pursuance to the orders passed by this Court on 15.06.2018 he addressed a letter to the 4th respondent to conduct enquiry and the 4th respondent conducted enquiry and submitted report stating that the 5th respondent is not the resident of Peddaharivanam Village; and that steps will be taken to cancel the Residence Certificate of the 5th respondent.

Learned Standing Counsel for respondents 1 and 2 also states that they will take further action in pursuance to the orders passed by the 3rd respondent. Learned counsel for the petitioner also states that the petitioner has filed complaint against respondents 1, 2 and 5 for issuing false certificate and the same is pending before the concerned police.

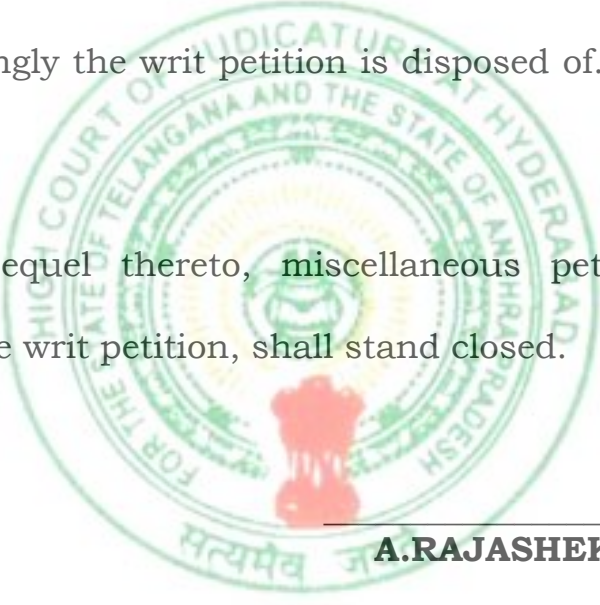
Having regard to the aforesaid facts and circumstances since it is stated that the 3rd respondent has wrongly issued the Residence Certificate to the 5th respondent stating that he is the

resident of Peddaharivanam Village and that they are taking steps for cancellation of the same, the 3rd respondent is directed to take appropriate action, as per law, in pursuance to the report submitted by the 4th respondent, within a period of three weeks from the date of receipt of a copy of this order. Till such exercise is carried out the 1st and 2nd respondents shall not take any further action. Basing on the outcome of enquiry and action taken by respondent No.3, Respondents 1 & 2 to take further appropriate action in accordance with law.

Accordingly the writ petition is disposed of. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

16.08.2018
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A.RAJASHEKER REDDY, J