

THE HON' BLE SRI JUSTICE M. SEETHARAMA MURTI

Writ Petition No.15111 of 2016

ORDER:

This writ petition is filed seeking to declare the action of the 1st respondent in issuing letter No.P-17011/ 7/ 2010-LPG, dated 25.02.2016, by applying March, 2015, guidelines to the LPG distribution selections relating to the notification, dated 15.09.2013, as illegal & arbitrary and consequently set aside the said letter and direct the respondents 2 & 3 to follow the terms and conditions of the notification, dated 15.09.2013.

2. I have heard the submissions of Sri C. Raghu, learned counsel appearing for the petitioner, of Sri D. Fernandes, learned counsel appearing for the respondents 2 & 3, and of Sri K. Lakshman, learned Assistant Solicitor General appearing for the 1st respondent. I have perused the material record.

3. The case of the petitioner is this:

The 2nd respondent issued a notification *vide* advertisement, dated 15.09.2013, for awarding retail LPG dealerships throughout the States of Telangana & Andhra Pradesh. The petitioner submitted her application along with requisite documents for distributorship for the location – LB Nagar. The 1st respondent *vide* letter, dated 25.02.2016, issued revised guidelines giving a go bye to the terms and conditions of the notification dated 15.09.2013. By the said letter, the 1st respondent directed the oil companies to conduct the scrutiny of application forms as per guidelines of March, 2015, viz., guidelines pertaining to ownership of land, approach road, funds in bank and reckoning of lease period. Thus, by the said letter, 1st respondent intended to accommodate the applicants, whose applications are liable for rejection as they were not fulfilling the terms and conditions of the advertisement, dated 15.09.2013, and, the selection guidelines of 2013, which are applicable to the 2013 selection process. The 2nd respondent, accordingly, conducted draw of

lots by applying the guidelines issued in March, 2015, as per the letter, dated 25.02.2016, and thus considered the applications of the ineligible persons. The said course adopted is illegal, arbitrary and irrational. Hence, the petitioner filed the present writ petition.

4. This Court, on 01.06.2016, while admitting the writ petition granted interim orders as prayed for in WPMPNos.18755 & 18756 of 2016; WPMP.No.18755 of 2016 is filed requesting to grant interim suspension of the letter, dated 25.2.2016, issued by the 1st respondent. WPMP.No.18756 of 2016 is filed seeking stay of all further proceedings related to distributorship for the location of LB Nagar.

5. Respondents 2 & 3 filed applications, IA.Nos.1 & 2 of 2018, along with supporting affidavits of the Deputy General Manager of the 2nd respondent Corporation requesting to vacate the said interim orders.

6. The case of the said respondents, in brief, is this:

The notice for appointment of LPG distributors was advertised by all the oil marketing companies in the newspapers, on 15.09.2013. A total of 71 locations were advertised under the Secunderabad Area Office (Telangana State). It is true that the petitioner was one of the eligible candidates for the location –LB Nagar, GHMC Ranga Reddy District, *vide* S.No.SEC/ LBN/ 0002. She participated in the draw of lots held on 20.11.2014. However, she was not the selected candidate. The petitioner participated in the re-draw conducted, on 23.4.2016, which was necessitated as the selected candidate in the first draw of lots was selected for the locations, Shaikpet, GHMC, & LB Nagar and opted for Shaikpet, GHMC. The selection process for the advertised locations is an ongoing process. The selection process was completed for 50 numbers of locations out of 71 advertised locations as on 25.02.2016, that is, the date of MOP & NG circular with revised guidelines for selection of LPG distributors. The scrutiny of applications for all locations including LB Nagar was completed

in September, 2014; and, the draw of lots was held, on 20.11.2014, as per the applicable guidelines, that is, guidelines of August, 2013. The distributorship at Shaikpet, GHMC, was commissioned, on 28.05.2015, and an approval from the competent authority was taken to conduct re-draw for location of LB Nagar, GHMC. No candidate was made ineligible for any of the advertised locations under the Secunderabad area office on the provision of 15 years lease period. Hence, the question of applying revised guidelines on any of the candidates who were successful in the draw does not arise. Further, the number of locations where the draw was held and FVC is pending is NIL under the Secunderabad area office. Hence, no candidate was made eligible based on the revised guidelines. Revised guidelines for setting up LPG distributorships were received in February, 2016; but, no candidate was made eligible based on the revised guidelines viz., approach road, ownership of land, funds in the bank and lease period. The table below gives a break up of LB Nagar draw.

S.No..	LB Nagar, GHMC	1 st draw (20.11.2014)	2 nd draw (re-draw) (23.04.2016)	Remarks
1	Total no. of applications received	153	153	NA
2	Total no. of eligible candidates (K3R)	136	122	LOI issued to 14 candidates for other locations.
3	Total no. ineligible candidates (K1R)	17	17	NA

Therefore, the case of the petitioner that ineligible applicants were accommodated on account of lease period, funds and approach road by applying the revised guidelines of 25.02.2016 is not correct. No candidate was made eligible on the above said account for location of LB Nagar. The applicants who participated in the draw of lots for location - LB Nagar are all eligible candidates who qualified for the draw of lots held on 20.11.2014. No

candidate has been added to the eligible list in February, 2016, in view of the fresh guidelines for setting up LPG distributorships. The revised guidelines circulated by the 1st respondent in February, 2016, are applicable to all locations advertised on 15.09.2013 and not only to LB Nagar. These locations included locations for which draw of lots was not conducted or draw of lots was pending as candidate was rejected on the grounds, viz., candidates were rejected in the FVC process and candidates who were selected for more than one location. Applications were invited for location - LB Nagar, GHMC, on 15.09.2013; scrutiny was completed in September, 2014; and, draw of lots was held on 20.11.2014. The candidate selected (Ms. Keerthi Reddy Mungala) in the draw for the location, LB Nagar was also selected in the draw of lots for the location - Shaikpet, GHMC; she opted for location - Shaikpet. Hence, redraw was conducted for the location - LB Nagar. All the necessary approvals were taken from the competent authority to conduct a redraw for the location, LB Nagar. Redraw was conducted, on 23.04.2016, among the balance eligible candidates. Ms. Supriya Reddy Chama is the selected candidate; and, she was eligible candidate even in the first draw held for the subject location. The petitioner also participated in the re draw that was conducted, on 23.04.2016, that is, after the date of the impugned guidelines in which she was not the selected candidate. However, in the instant case no candidate was made eligible on the basis of the revised guidelines of March, 2015, that is, approach road, ownership of land, funds in bank and lease period. Hence, the application of revised rules has no significance in the instant case. The petitioner is trying to stall the allotment process as the petitioner is an unsuccessful candidate. The writ petition is filed as an after thought. Hence, the interim orders may be vacated and the writ petition may be dismissed.

7. At the hearing, learned counsel for the petitioner and the learned counsel appearing for the respondents 2 & 3 reiterated the respective contentions.

8. Learned counsel for the petitioner having placed reliance on the common order, dated 19.07.2017, of this Court in WP.No.14000 of 2016 and batch contended that the facts of the case of the present writ petitioner are akin to the facts of the cases of the petitioners therein and submitted that this Court by the said orders allowed the said batch of writ petitions and set aside the impugned letter, dated 25.02.2016 and, that, therefore, on the same terms of the said order this writ petition also deserves to be allowed.

9. However, learned counsel appearing for respondents 2 & 3 for all the reasons stated in the counter affidavit, which were referred to supra, stated that the decision of this Court in the afore-stated batch of writ petitions is not applicable to the present petitioner in view of peculiar facts of the present case and in the light of the fact that in the draw of lots and redraw of lots no candidate was made eligible on the basis of the revised guidelines of March, 2015, that is, approach road, ownership of land, funds in bank and lease period and, hence, the application of revised rules has no significance in the instant case.

10. I have given earnest consideration to the facts and submissions. The only question that falls for consideration is as to whether the revised guidelines were applied to the distributorship for the location - LB Nagar. From the pleadings and submissions the following facts are discernable: - 'The petitioner was one of the eligible candidates for location, LB Nagar. She was unsuccessful and was not the selected candidate in the draw of lots held on 20.11.2014. In that draw of lots, the candidate, who was selected for locations, LB Nagar as well as Shaikpet, opted for Shaikpet. Therefore, it necessitated for holding a redraw. Redraw was conducted on 23.04.2016. The petitioner and other eligible candidates participated in the redraw. Redraw was conducted, on 23.04.2016, among the balance eligible candidates. In the said redraw she was not the selected candidate. Ms. Supriya Reddy Chama was the selected

candidate in the redraw; and, she was the eligible candidate even in the first draw held for the subject location. The petitioner also participated in the redraw that was conducted, on 23.04.2016, that is, after the date of the impugned guidelines. However, it is undisputed that in the instant case no candidate was made eligible on the basis of the revised guidelines of March, 2015, that is, approach road, ownership of land, funds in bank and lease period. Hence, the application of revised rules has no significance in the instant case. In fact, said Supriya Reddy Chama, who was the selected candidate in the re-draw for LB Nagar location, was an eligible candidate even for the first draw for the said location. For LB Nagar location, distributorship applications were invited on 15.09.2013; and, scrutiny of application was completed in September, 2014; and, as already noted first draw of lots was held on 20.11.2014 and re draw was held on 23.04.2016. Among the balance eligible candidates, the selected candidate was an eligible candidate even for the first draw held for subject location. Therefore, the applicability of the disputed guidelines to the location, LB Nagar has not affected the eligible and ineligible list. Therefore, the contention insofar as LB Nagar location distributorship that on account of the revised guidelines ineligible candidate has become eligible cannot be countenanced as the selected candidate for the said location was an eligible candidate even for the first draw held on 20.11.2014. In that view of the matter, though the guidelines issued in February, 2016, are applicable to all the locations, where draw of lots had to be conducted, however, in the instant case no candidate was made ineligible based on the revised guidelines of March, 2015, that is, approach road, ownership of land, funds in the bank and lease period. All the applicants who participated in the re-draw of lots for location - LB Nagar are all eligible candidates, who qualified for draw of lots held on 20.11.2014, and no candidate has been added to the eligible list as per fresh guidelines for setting up LPG distributorship in February, 2016. Therefore, as rightly contended by

the learned standing counsel the aforestated common order relied upon by the learned counsel for the petitioner is of no avail to the petitioner herein as the facts of the present case are diverse and this case stands on a different footing.

11. On the above analysis, this Court holds that the applicability of the impugned guidelines to the location, LB Nagar did not arise during the process of selection and therefore, the applicability of the disputed guidelines to the location, LB Nagar has not affected the eligible and ineligible list. In that view of the matter, this Court holds that the writ petitioner cannot be said to be having any redressable grievance. Hence, this Court finds that the writ petition is liable to be dismissed.

12. Be it noted that the petitioner has not impleaded the successful applicant in the second draw who was selected for the LB Nagar distributorship though she is an interested and necessary party to this writ petition. For that reason also, the writ petition is liable to be dismissed.

13. In the result, the writ Petition is dismissed.

There shall be no order as to costs.

Pending miscellaneous petitions, if any, shall stand closed.

M. SEETHARAMA MURTI, J

20.06.2018

Vjl