

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Judgement Reserved on: 06..09..2019
Judgement Pronounced on: 30..09..2019

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.26509 of 2008

R.Parkavi

... Petitioner

-Versus-

- 1.The Hindustan Petroleum Corporation Limited,
Rep. by its General Manager-SZ,
Thalamuthu Natarajan Building,
No.8, Gandhi Irwin Road,
P.B.No.3045, Egmore,
Chennai 600 008.
- 2.The Selection Board,
The Hindustan Petroleum Corporation Limited,
Rep. by its General Manager-SZ,
Thalamutu Natarajan Building,
No.8, Gandhi Irwin Road,
P.B.No.3045, Egmore,
Chennai 600 008.
- 3.M/s.The Hindustan Petroleum Corporation Limited,
Madurai Retail Regional Office,
Rakesh Tower, 3rd Floor,
Bye-pass Road, Madurai 625 010.

4.P.Bhuvaneswari

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the entire records relating to the order passed by the 1st respondent dated 26.09.2008 and to quash the same direct the 1st respondent to appoint the petitioner as a Dealer for Retail Outlet at T.Pazhur.

For Petitioner

: Mr.K.Sukumaran

For Respondent(s)

: Mr.O.R.Santhanakrishnan
for RR1 to 3

For Petitioner

: Mr.K.Sukumaran

Mr.S.Shanmugasundaram
for R4

ORDER

This writ petition has been filed challenging the impugned order of the 1st respondent dated 26.09.2008 cancelling the selection of the petitioner for appointment of dealership for retail outlet of Hindustan Corporation of Petroleum Limited at T.Pazhur.

2. The brief facts leading to the filing of the writ petition are as follows:-

The 1st respondent - The Hindustan Petroleum Corporation Limited (in short "HPCL") called for applications for appointment of Retail Outlet dealer at various places in Tamil Nadu and Puducherry which included the location at T.Pazhur village in Perambalur District. The petitioner and four other candidates applied for the dealership, out of them 3 persons including the petitioner were called for interview. The petitioner being the successful candidate, she was selected as the first empaneled candidate for retail outlet dealership at T.Pazhur as she got 76% out of total mark of 100. Subsequently, without any notice whatsoever, the 1st respondent cancelled the selection of the petitioner. Aggrieved by the same, the petitioner filed a writ petition in W.P.No.15678 of 2006 before this Court and this court by order dated 11.05.2006, quashed the order of cancellation of selection of the petitioner for retail outlet dealership on the ground that the order was passed without giving any opportunity to the petitioner and directed the 1st respondent to issue a notice to the petitioner and pass appropriate orders on merit giving reasonable opportunity to the petitioner and others. Thereafter, an enquiry was conducted by the 1st respondent wherein the petitioner and the 4th respondent, who was the next empaneled candidate appeared, after the enquiry, the impugned order has been passed cancelling the selection of the petitioner, on the ground that the notification was called for locating a retail outlet in T.Pazhur village, but, the site offered by the petitioner situate in another village namely, Kodangudi South Village, therefore, the petitioner was not eligible for retail outlet dealership. It is this order which is now under challenge in this writ petition.

3. Mr.K.Sukumaran, the learned counsel appearing for the petitioner would contend that even though the site offered by the petitioner is situate in Kodangudi South Village, it is

within the registration jurisdiction of the Sub Registrar of T.Pazhur Village and it is form part of T.Pazhur Village. The site offered by the petitioner is situated very near to T.Pazhur Village.

4. The learned counsel further submitted that even though the notification was issued for T.Pazhur village, the Application Format issued by the HCPL, in the column relating to location, it has been mentioned as "location (at or around)" viz., required location could be at or around T.Pazhur and the site offered by the petitioner is situated around T.Pazhur village. That apart, as per column 12 of the application, applicant must have owned land in and around the notified location. Admittedly, the petitioner's site is situated very near to T.Pazhur village, hence, the application of the petitioner ought not to have been rejected solely on the ground that the site offered by the petitioner is not situated at T.Pazhur village. It is not a mandatory requirement that the site must be within T.Pazhur village.

5. Per contra, Mr.O.R.Santhanakrishnan, the learned counsel appearing for the respondents 1 to 3 would contend that the notification was issued calling for application for appointment of dealership at T.Pazhur village. But, the site offered by the petitioner not situated within T.Pazhur village and it is situated in Kodangudi village. After empaneling the candidates, the 4th respondent filed a complaint to HCPL that the land offered by the petitioner falls outside T.Pazhur village and also produced a certificate from the Village Administrative Officer concerned that the site offered by the petitioner comprised in S.No.313/13 is at Kodangudi South village. Thereafter, an inquiry officer was appointed by the respondent to conduct an enquiry and the enquiry revealed that the land offered by the petitioner was situated at Kodangudi South village which was not within the advertised location therefore, the selection of the petitioner was cancelled.

6. The learned counsel for the respondents 1 to 3 further submitted that the words "at or around" found in the application format do not mean that the site should be in and around T.Pazhur village. The petitioner was required to specify the location of the site and the location only means within the area specified in the notification. That apart, even in the application submitted by the petitioner, she had categorically stated that the site is situated in T.Pazhur village and she did not state that the site is situated around T.Pazhur village. Thus, she had given false statement in the application and therefore, on the ground of furnishing false information also,

her application was liable to be rejected, and the same has been accordingly rejected.

7. The learned counsel appearing for the 4th respondent contended that the site offered by the petitioner is situated outside the T.Pazhur village and in a separate village called as "Kodangui South" village and the petitioner had given false information that her site is situated in T.Pazhur village. All the revenue records produced by the 4th respondent clearly established that the land situated only at Kodangudi South village and not at T.Pazhur village. Having considered all those objections, the HPCL rightly cancelled the selection of the petitioner for appointment of retail outlet dealership.

8. I have considered the rival submissions and also perused the records carefully.

9. It is an admitted fact that the applications were called for retail outlet dealership for petroleum products at T.Pazhur village. It is also an admitted fact that the site offered by the petitioner is not situated at T.Pazhur village, but, it is in the other village called as 'Kodangudi South'. The contention of the petitioner is that the village of Kodangudi South is situated very near to T.Pazhur Village and the same falls within the Sub Registration Office of T.Pazhur.

10. Before considering the rival submissions, it would be useful to refer to the relevant clause in the Notification which reads as follows:-

Hindustan Petroleum Corporation Limited [A Govt. of India Enterprise] Notice for Appointment of Retail Outlet Dealers							
Hindustan Petroleum Corporation Limited proposes to appoint dealers for Retail Outlet dealerships in Tamilnadu & Pondicherry at the following locations:							
Sl. No.	Location s	Rev. Dist.	Cat.	...	...	...	...
9	T.Pazhur	Perambalur	OP (W)	...	...	...	...

11. The relevant portion of the Application Format issued along with the notification reads as follows:-

Application Format

For HPCL Retail Outlet (Petrol pump)
SKO LDO Dealership

Location (at or around) _____

Rev. District _____ State _____.

... ..
... ..

12. Land detailed (to be produced by all applicants:

(a) Do you have a suitable site readily available at or around the location where the dealership has been advertised?
yes / No.

if yes, City/Town/Village _____
District _____ State: _____ Survey
No. _____ House No. _____ Name of the
Road _____ NH No. /SH No./Other Road: _____
Nearest KM Stones: _____ Total land area:
(Acre / Sq.m) _____ Site map with
dimension to be attached.

12. Thus, the notification would clearly show that the retail outlet should be located at T.Pazhur village. The meaning of the word "at" has been given in P.Ramanatha Aiyar's The LAW LEXICON (The Encyclopaedic Law Dictionary - Fourth Edition - at Page 1108) as follows:

"At - more generally means "within" than "without" in consequence of its idea of nearness, although, it is sometimes used to denote exclusion rather than inclusion."

The word "at" generally means within area in which the dealership was advertised. In the application format referred to by the learned counsel for the petitioner, the applicants are required to mention the location of the place. The word "location" has been defined in Black's Law Dictionary (Tenth Edition) as follows:-

"Location - The designation of the boundaries of a particular piece of land, either on the record or on the land itself."

In P.Ramanatha Aiyar's 'The Law Lexicon', The Encyclopedic Law Dictionary, the word "location" has been defined as follows:-

"Location - an area or tract of land; a position or site occupied or available for occupancy or marked by some distinguishing feature."

Thus, the word "location" means only the boundaries of a particular piece of land within T.Pazhur village. The words "at or around" as found in the application format denote the land which is situated within the areas specified in the Notification. Recently, a Division Bench of this Court had an occasion to consider the word "location / locality" in a LPG Distributorship case in The Territory Manager-LPG, Chennai LPG Territory v. R.K.Pradeep Raj, 2016 (1) CWC 877 wherein the Division Bench of this Court has held as follows:-

"7. Next, it is also necessary to appreciate the distinction between the words "location" and "locality". The word "locality" is defined as a neighborhood" or "area" or "location". The word "location" is defined as a "site" or "position". Both the words can be used interchangeably and have to be understood in the context wherein they are employed. In the case on hand, "location/locality" means the area specified in the Notification. In the Notification, when the locality of "Puzhal/Kallikuppam" is specified under the column "location", it means any location within the said locality."

13. In the above circumstances, the contention of the petitioner that the words "in and around" mentioned in the application format includes any place in and around the notified area cannot be countenanced.

14. That apart, as rightly pointed out by the learned counsel for the respondents 1 to 3 in the application submitted by the petitioner, she had categorically mentioned that the site offered by her is situated at T.Pazhur village and she had not mentioned that the site is situated at Kodangudi South village which, according to the petitioner, is situated in and around T.Pazhur village. The petitioner had deliberately given an incorrect particular regarding the location of the site offered by her. The contention of the petitioner that Kodangudi South Village forms part of T.Pazhur village, is only an after thought which at any rate cannot be accepted. Having considered the fact the petitioner did not offer a site situated within the notified location, the HPCL has rightly rejected the selection of the petitioner. There is no illegality or irregularity in the same. Thus, this court finds no merit in the writ petition and the same deserves only to be dismissed.

In the result, this Writ Petition is dismissed. No costs. Consequently.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

kmk

To

1.The Hindustan Petroleum Corporation Limited,
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Rakesh Tower, 3rd Floor,
Bye-pass Road, Madurai 625 010.

+1cc to Mr.K.Sukumaran, Advocate SR.84171

+1cc to Mr.O.R.Santhana Krishnan, Advocate SR.83917

+1cc to Mr.S.Senthil Natha, Advocate SR.83538

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VBA (CO)
CB(13/11/2019)

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