

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2019

CORAM

THE HONOURABLE Mr.JUSTICE M.DHANDAPANI

W.P. 23793 of 2009

and

M.P.s 1 & 2 of 2009

Bharat Petroleum Corporation Limited,
having its office at Tondiarpet
Installation,
No.35, Vaidyanathan Street,
Tondiarpet,
Chennai-600 081.

... Petitioner

Vs

1.The Commissioner,
Corporation of Chennai,
Ripon Building,
Chennai-600 003.

2.S.V.Madhuprasad,
No.28, Roase Nagar Main Road,
Rose Nagar,
Kovilambakkam,
Chennai-600 117.

R2 impleaded as per order
dated 08.12.2009 in M.P.
No.3 of 2009.

3. S.V.R.Saroja,

4. S.V.R.Ramprasad

5. S.V.R.Vijaya

6. S.V.R.Renukadevi

3 to 6 are residing at
No.L-17/71, 24th Street,
Anna Nagar East,
Chennai-600 102.

WEB COPY

R3 to R6 are impleaded as
per order dated 02.08.2019
in W.M.P.No.20208 of 2019

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records culminating in the impugned notice dated 13.11.2009 and quash the same and consequently directing the respondent corporation to permit the petitioner corporation to resume its trading activities at its outlet located at 853, Anna Salai, Chennai-600 002.

For Petitioner : Mr.Krishna Srinivasan for
M/s.S.Ramasubramaniam
and Associates

For Respondents : Mr.R.Arunmozhi,
Standing Counsel for
Chennai Corporation

R3 to 6 : Mr.R.Natarajan

O R D E R

This Writ Petition has been filed challenging the impugned notice dated 13.11.2009 issued by the 1st respondent and quash the same and consequently directing the 1st respondent Corporation to permit the Petitioner Corporation to resume its trading activities at its outlet located at 853, Anna Salai, Chennai-600 002.

2. The case of the petitioner is that the petitioner is a Public Sector Enterprise under the aegis of the Ministry of Petroleum and Natural Gas, Government of India. The petitioner is one of the Premier Oil Marketing Companies in the country and involved in the process of exploration, refining and marketing of various ranges of essential Petroleum products like Motor Spirit, High Speed Diesel, Lubes, Liquidated Petroleum Gas, Aviation Turbine Fuel, etc. and caters to the general public across the country.

3. The petitioner has further averred that the petitioner for the purpose of marketing petroleum products has set up a dealers through whom the petitioner markets its petroleum products. Apart from such dealers, the Corporation also owns and operates several other outlets on stock transfer basis. In the year 1955, the petitioner's predecessor in interest, M/s.Burmah

Shell appointed a dealer viz., M/s. Harikanth Enterprises at 853, Anna Salai, Chennai and the property was taken on lease from 1955. For the storage of petroleum products and operating from the said outlet, the petitioner corporation obtained a license under the Petroleum Act in the year 1955 and the said license is renewable upon expiry and the petitioner has renewed the said license at regular intervals, last of such renewal being on 18.07.2007 and valid upto 31.12.2009.

4. While being so, on 05.11.2009, the petitioner corporation received a notice from the 1st respondent issued under Sec.287 of Chennai City Municipal Corporation Act IV of 1919 (hereinafter called as CCMC Act), directing the petitioner to apply for trading license within 7 days from the date of receipt of notice, failing which proceedings will be initiated against the petitioner under Sec.379-A of CCMC Act, to prevent usage of the said place by the petitioner. Thereafter, they have proceeded the matter. Against which, the present Writ Petition has been filed by the petitioner.

5. Mr.Krishna Srinivasan, learned counsel appearing for the petitioner would submit that once the petitioner Corporation obtained a license from the Ministry of Petroleum and Natural Gas under the enactment viz., Rule 116 of Petroleum Rules, 2002, the site was occupied by the Union Government of India and they have already obtained license for the very same purpose, the Chennai Municipal Corporation has no right to call upon the petitioner to obtain a license from the Corporation under Sec.287 of CCMC Act is unsustainable one. The learned counsel has also drawn the attention of this Court with regard to the relevant sections and rules and further submitted that as per Sec.4 of the Petroleum Act, 1934 the petitioner oil corporation has to obtain a license through a prescribed form. Accordingly, as per Rule 116 of the Petroleum Rules, 2002, the petitioner has obtained license for storage of outlet from the Petroleum Ministry. Even on perusal of the Schedule XIV, it clearly says that to store the petroleum in tank or tanks in connection with pump outfit for fueling motor conveyance, already the Ministry of Petroleum has issued license in favour of the petitioner. Hence, for the very same purpose, the Chennai Corporation has no right to insist the petitioner to secure license under the CCMC Act is unsustainable one. Further, the learned counsel has drawn the attention of Sec.287 Schedule VI of CCMC Act, wherein Schedule VI has clearly exempted the Oil Corporation from obtaining license, when the oil corporation have storage point within the jurisdiction of Chennai Corporation. Accordingly, he prayed for allowing the Writ Petition.

6. Per contra, Mr.R.Arunmozhi, learned standing counsel appearing for the 1st respondent Corporation would submit that as

per the Rules and Schedule VI, the Petroleum Corporation is exempted for getting license for the purpose of storing, packing, pressing, cleansing, preparing or manufacturing any process whatever. However, in the present case, the Oil Corporation has not obtained the license from the Commissioner within the limits of the city i.e. at Door No.853, Anna Salai, Chennai-2 under Sec.287 of CCMC Act. Hence, the petitioner Corporation has no right for selling the petroleum products within the limits for any of the purposes situated in the Mount Road, the petitioner has to necessarily obtain a license from the Chennai Corporation and when the license for selling the petroleum products is not available with the petitioner corporation, the Chennai Corporation has rightly issued a notice to the petitioner to obtain a license under the CCMC Act.

7. Mr.Natarajan, learned counsel appearing for the owner of the land, which was leased in favour of the petitioner corporation would submit that the petitioner corporation already leased out their outlet in favour of one V.Karnan, who was an Ex-Serviceman. Hence, the petitioner corporation has to necessarily obtain the license from the Chennai Corporation.

8. I have heard the submissions of learned counsel appearing for the petitioner as well as learned counsel appearing for the 1st respondent and the landowner and considered the same.

9. On perusal of the records, it is seen that the petitioner corporation is running the outlet in the name and style of Bharat Petroleum Corporation Limited. The crucial issue in the present case is whether the company outlet has to necessarily obtain the license from the Chennai Corporation or not. For the purpose of deciding the issue, the relevant provision of CCMC Act viz., Section 287 and Schedule VI are extracted hereunder :-

"287. Purposes for which places within the limits of the city or within three miles thereof may not be used without license and payment of proportionate tax to local body concerned in the latter case.-- (1) No place within the limits of the city shall be used for any of the purposes mentioned in Schedule VI without a license obtained from the commissioner and except in accordance with the conditions specified therein; Schedule VI - Purposes for which (Places) may not under Section 287 be used without a License. --- [Petroleum products -Storing, packing, pressing, cleansing, preparing or manufacturing by any process whatever :

Provided that no license under this Act shall be required for storing petroleum and its products quantities exceeding those to which the operation of this Act is limited by the provisions of the Petroleum

Act, 1934, or the rules or notifications issued thereunder.]”

10. On perusal of the above CCMC Act makes it clear that as per Section 287, no place within the limits of city shall be used for any of the purposes mentioned in Schedule VI without a license obtained from the Commissioner and further, on perusal of the Schedule VI makes it clear that the petroleum products storing, packing, pressing, cleansing, preparing or manufacturing is exempted for getting license if they have obtained a license from the competent authority under the Petroleum Act. However, in the present case, the petitioner is running the outlet at Anna Salai for selling the petroleum products. Hence, the Chennai Corporation insisted the petitioner to obtain a license for selling the petroleum products in the outlet situated at Anna Salai.

11. On further perusal of the above CCMC Act, it is clear that the petitioner need not obtain a license for storing or manufacturing, however, if the petitioner corporation selling the petroleum products in the outlet, necessarily they have to obtain a license from Chennai Corporation and the Chennai Corporation also placed the relevant materials before this Court. Hence, on perusal of the above provision, it makes it clear that the petitioner has to necessarily obtain license from Chennai Corporation for selling the petroleum products within the jurisdiction of Chennai Corporation. Therefore, I am not inclined to interfere with the order passed by the authority. Accordingly, this Writ Petition stands dismissed. However, the petitioner is directed to make a fresh application before the 1st respondent/Chennai Corporation within a period of two weeks from the date of receipt of the copy of this order and thereafter, on receipt of the application, the 1st respondent is directed to issue license in favour of the petitioner corporation within a period of four weeks. Till the consideration of the petitioner's application, no action can be taken against the petitioner.

12. With the above direction, the Writ Petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

rpp

To

The Commissioner,
Corporation of Chennai,
Ripon Building, Chennai-600 003.

+4cc to Mr.R.Natarajan, Advocate, SR.66270
+1cc to MR.Manohar, Advocate, SR.66203
+1cc to M/S.R.Arunmozhi, Advocate, SR.66293

SV(CO)
CB(01/10/2019)

W.P. 23793 of 2009
and
M.P.s 1 & 2 of 2009



WEB COPY