

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Order Reserved on : 11.11.2019

Order Pronounced on : 18.11.2019

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

W.P. No.28957 of 2012
and
M.P.No. 1 of 2012
&
W.M.P.Nos.30634 & 30989 of 2019

K. Bhoopathi

... Petitioner

Vs.

1. Senior Regional Manager,
Hindustan Petroleum Corporation Ltd.,
Petro Bhavan, 3rd floor,
No.82/47, TTK Road,
Alwarpet, Chennai - 18.
2. The Tashildar, Tiruttani Taluk,
Tiruvallur District
(R2 impleaded as per order dt: 13.09.2019
in W.M.P.No.26713/2019

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus to call for the records of the respondent in CHNLRO/RH/RGGLV-IE, dated 12.10.2012 quash the same and direct the respondent to include the petitioner application in process of selection for distributor of Rajiv Gandhi Grama LPG vitrak (RGGLV) at Maddur Village, Tiruttani taluk, Tiruvallur District.

For Petitioner : Mr. M. S. Palaniswamy

For Respondents : Mr. O.R.Santhana Krishnan,
for R1
Mr. R. Govindasamy,
Spl. G.P.,
for R2

O R D E R

This writ petition has been filed challenging the order passed by the first respondent rejecting the petitioner's application seeking for LPG dealership on the ground that the petitioner does not belongs to the advertised location.

2. The brief facts leading to file the writ petition is as follows:

The first respondent, Hindustan Petroleum Corporation Limited (herein after called "Corporation") has called for application for distributorship of LPG, under Rajiv Gandhi Grama LPG Vitrak (RGGLV) to various villages in the State of Tamilnadu. For one of the notified locations, namely, Maddur/ Ponpadi/ Alamelumangapuram, in Tiruttani Taluk, Tiruvallur District, the petitioner, being eligible to appoint as a distributor, filed an application. According to the petitioner, the Maddur village is a revenue village consisting of the cluster of villages, called Kothur, Mulamaddur, etc., and all the hamlets are part of Maddur village . The petitioner has also obtained a residential certificate from the Tahsildar, Tiruttani to that effect. Now, the first respondent rejected the petitioner's application on the ground that, as per the General qualification under the RGGLV Scheme, the candidates should belongs to advertised location, but the petitioner does not belongs to the advertised village, namely Maddur, but he belongs to Kothur Village. Now, challenging the above order, the present writ petition has been filed on the ground that Kothur is not a separate village and it is one of the hamlets of Maddur revenue village, and the petitioner's application cannot be rejected on the ground that he is not a resident of Maddur village.

3. The first respondent filed a counter affidavit stating that RGGLV Scheme has been framed for catering to the demand of Domestic LPG in the rural areas. As per the notification, the first respondent has called for application only for Maddur village. The petitioner applied for the same claiming that he is the resident of Maddur village, where as, the residential address stated in his application reveals that the petitioner belongs to Kothur village and the declaration given by him clearly shows that he belongs to Kothur village. That apart, in the residential certificate issued by the Tahsildar, Tiruttani, it is stated that the petitioner is the resident of Kothur Village. One of the qualifications under RGGLV Scheme is that the candidates should belongs to the advertised location, since, the petitioner belongs to Kothur village, which is not the

advertised village, namely, Maddur village, the application filed by the petitioner was rightly rejected by the first respondent and there is no illegality in it.

4. Mr. M.S.Palaniswamy , learned counsel appearing for the petitioner would submit that Kothur is only a hamlet of Maddur revenue village. The revenue records and other documents clearly establish that Kothur is one of the hamlets of the Maddur , which is a revenue village, and the revenue authorities also issued a certificate to that effect. In the voter list issued by the authorities, it is clearly stated that Kothur village comes under Maddur Village Panchayath. The petitioner is a resident of Kothur hamlet, which is in the revenue village of Maddur, and the petitioner's application cannot be rejected on the ground that he does not belong to Maddur Village. The learned counsel for the petitioner also relied upon a judgment of the Division Bench of this court in W.A.No.950 of 2013, Dt: 16.10.2014 (R.Vennilla /vs/ Indian Oil Corporation and others) to support his contention.

5. Per contra, the learned counsel appearing for the first respondent would vehemently contend that as per the advertisement issued by the first respondent only Maddur is the notified location, but the petitioner belongs to Kothur Village. Hence, his application was rightly rejected. The learned counsel also referred to the notification issued by the first respondent calling for application. As per the notification, the notified location is Maddur/ Ponpadi/ Alamelumangapuram, and as per clause 4(b) of the notification, the applicant should belong to the notified village. Since the petitioner does not belong to the notified village, his application has been rejected. The Court can only interfere with the order passed by the administrative authority, if it is unfair or unreasonable. Since the authority concerned has passed an order based on the documents available on record, the Court cannot interfere with the order passed by the authorities under Articles 226 of the Constitution of India.

6. The learned counsel also further submitted that the very purpose of specifying the location is to cater the needs of the people living in the locality. If the distributorship given to the person, other than the notified locality, the purpose will be defeated. In support of his contention, the learned counsel also relied upon following judgments of this Court:-

(1) 2016 1 CWC 877 (The Territory Manager-LPG, Chennai LPG Territory /vs/ R.K.Pradeep Raj)

(2) W.A.(MD) No.866 of 2014, dt: 15.07.2016 (M.Rajiv Pandian /vs/ Hindustan Petroleum Corporation Limited and others)

(3) W.A.No.145 of 2014, dt: 30.04.2014 (Satyaranjan Mallick /vs/ Indian Oil Corporation Ltd., & others)

(4) W.A.No.469 of 2019, dt: 16.10.2019 (Mahavir Prasad Agrawal /vs/ Indian Oil Corporation Limited and others).

7. I have considered the rival submissions made on either side and perused the materials available on records carefully.

8. The dispute revolves around the residential status of the petitioner. As there was a serious dispute between the parties, as to whether the Kothur is a hamlet and form part of Maddur Revenue village, or it is a separate village, this Court earlier directed the Tahsildar, Tiruttani, to produce relevant revenue records, and also directed him to file an affidavit as to whether the Kothur and Maddur are two separate villages or Kothur is a hamlet of Maddur Revenue Village. Pursuant to the order, the Tahsildar, Tiruttani, filed an affidavit stating that Kothur is a hamlet within the jurisdiction of Maddur-"B" Village. The relevant portion of the affidavit reads as follows:

"I respectfully submit that the Maddur Village is situated in the Revenue jurisdiction of Tiruttani Taluk, Tiruvallur District. It is submitted that the Maddur revenue village No.13, has been divided as Maddur A and Maddur B. The Maddur A consisting of 3 hemlet villages such as 1. Maddur, 2. Maddur Colony, 3. Rajiv Gandhi Street, Moola Maddur. Similarly, the Maddur B, consisting of 2 hemlet villages such as 1. Kothur and 2. Kothur Irular colony. The question in the impleading petition is , whether Kothur hemlet village is within the jurisdiction of Maddur or not. I hereby submit that the Kothur is hemlet village within the jurisdiction of Maddur-B revenue village. I submit that the Kothur hemlet village is situated within the jurisdiction of Maddur revenue village, Tiruttani Taluk, Tiruvallur District. "

That apart, the Tahsildar has also produced the Village "A" Register to show that Kothur is the hamlet of Maddur Revenue Village. However, the same was disputed by the learned counsel appearing for the first respondent and stated that the Maddur is only the notified village and the petitioner is not the resident

of the advertised location, and he admittedly belongs to Kothur Village. The notification is area specific, and only the persons, who belongs to Maddur village alone are eligible to apply. From the affidavit filed by the Revenue Authority, namely, the Tahsildar and perusal of other revenue records, it could be seen that Kothur is not a separate village, and it is one of the hamlets and form part of Maddur village.

9. The next question that arises for consideration is, whether Kothur village can be considered as a notified location, especially, the area is location specific. No doubt, it is a settled principle that the notification is location specific and the candidate applying for distributorship should belongs to the notified village. Whether the applicant, who is residing in one of the hamlets of the notified Revenue Village, can be considered as a resident of that notified village is to be decided here. In a similar circumstances, a Division Bench of this Court in R.Vennilla /vs/ Indian Oil Corporatin and others in W.A.No.950 of 2013 dated 16.10.2014, held that when the intention of the scheme is providing LPG to the consumers residing the cluster of villages, the authorities is not justifying in cancelling the application, when the land offered by the applicant coming within the cluster of the villages of the notified location. The relevant portion of the order reads as follows :

"30. We have already pointed out the intention of the scheme and its concept. IT is clearly indicated there in that the said scheme was formulated to make the LPG available in rural areas and the RGGLV will be sustainable in cluster of villages having about 4000 families. It is specifically indicated that the RGGLV will be set up for a group/cluster of villages having a potential of average monthly sale of 600 cylinders. Therefore, when the intention of the Scheme itself is for providing LPG to the consumers residing in a cluster of villages, the first respondent is not justified in cancelling the appellant's selection, when the lands offered by her are admittedly coming within the cluster of villages of the notified location.

10. In the instant case, even though the notified village is Maddur, the materials available on records clearly shows that Kothur is one of the hamlets of the notified village and Kothur is form part of the notified village Maddur. In the said circumstances, the first respondent cannot reject the petitioner's application on the ground that he is not belongs

to the notified locality.

11. It is pertinent to mention here that the RGGLV Scheme is to provide LPG to the specified category of people living in and around the notified location, and in order to ensure the regular supply of LPG to the notified villages, the dealership is awarded to person, who is a resident of the notified locality. In the instant case, the Kothur village is also one of the beneficiary villages under the Scheme, receiving LPG under the scheme, hence the petitioner cannot be considered as outsider, merely because he is residing in the hamlet of the notified village. In the above circumstances, I am of the considered view that the order passed by the first respondent rejecting the petitioner's application is not valid in the eye of law, and the order passed by the first respondent rejecting the petitioner's application is liable to be set aside.

12. So far as the judgments relied upon by the learned counsel appearing for the first respondent are concerned, in all those judgments, the Courts have held that the awarding dealership is a site specific, the land situated outside the notified location cannot be accepted, the terms and conditions in the notification should be strictly followed, and the applicant should belong to the notified village. In the instant case, the petitioner is residing in one of the hamlets of the notified location, and it cannot be held that the petitioner is not the resident of notified village. In the said circumstances, all the judgments relied on the counsel for the respondents are not factually apply to this case.

13. In the result, the writ petition is allowed. The order passed by the first respondent dated 12.10.2012 is set aside and the first respondent is directed to consider the petitioner's application for awarding dealership under the RGGLV Scheme. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Senior Regional Manager,
Hindustan Petroleum Corporation Ltd.,
Petro Bhavan, 3rd floor,
No.82/47, TTK Road,
Alwarpet, Chennai - 18.

2. The Tashildar, Tiruttani Taluk,
Tiruvallur District

+1cc to Mr.O.R.SanthanaKrishnan, Advocate SR.95898

+1cc to Mr.M.S.Palanisamy, Advocate SR.95755

W.P.No. 28957 of 2012

SS (CO)

CB(30/01/2020)