

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2019

CORAM

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.19360 of 2018

and

W.M.P.Nos.22762 to 22764 & 25359 of 2018

M.C.Meyyappan @ Manickam

... Petitioner

Vs

The Deputy General Manager,
(LPG-Sales),
Indian Oil Corporation Limited,
Indane Chennai Area Office,
500, Anna Salai, Teynampet,
Chennai - 600 018.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari and Mandamus to call for the records of the respondent in Ref.No.IOC 4112078027042018 dated 24.07.2018 and quash the same and consequently direct the respondent to accept the petitioner's lease deed and Rectification Deed dated 23.04.2018 and 06.07.2018 respectively.

For Petitioner : Mr.L.Chandrakumar
for Mr.P.Krishnan

For Respondents: Mr.Mohammed Fayaz Ali,
Standing Counsel

O R D E R

This Writ petition is filed challenging the order dated 24.07.2018, wherein and whereby, the respondent has rejected the lease deed dated 23.04.2018 and rectification deed dated 06.07.2018 by stating that they do not confirm to the unified guidelines. In the very impugned proceedings, the respondent also directed the petitioner to offer an alternative land for show room and submit the same on or before 31.07.2018 also by indicating that failure to do so, would result in rejection of the candidature of the petitioner. Consequently, the petitioner seeks for a direction to the respondent to accept the lease and rectification deeds dated 23.04.2018 and 06.07.2018,

respectively.

2. The petitioner is a physically challenged person. The respondent issued an advertisement on 28.03.2018 for LPG Distributorship at Pammal, Chennai, Kancheepuram District. The petitioner applied for the said Distributorship. The petitioner was selected through drawal of lot conducted by the respondent. The petitioner possessed the subject matter site at Plot No.2A, Door No.27E, Vedagiri Street, Pammal Village, Chennai- 600 075 on lease from its owner by entering into a registered lease agreement dated 23.04.2018. He presented the said lease deed before the respondent as a site to run the distributorship. By letter dated 28.06.2018, the respondent informed the petitioner that the said lease was not in consonance with the unified guidelines for selection for LPG Distributorship, since the period mentioned in the said lease deed was for 11 months and not 15 years as required as per the guidelines. Therefore, the respondent called upon the petitioner to offer an alternate site. However, on noticing the said mistake in the lease deed, the petitioner and the owner of the site entered into a rectification deed dated 06.07.2018 rectifying the period of lease as 15 years instead of 11 months. It is specifically recited in the said rectification deed that the period of lease was wrongly typed as 11 months instead of 15 years in the original lease deed. However, as the said rectification deed could not be presented for registration within the time stipulated for providing alternative site, the petitioner approached this Court and filed a writ petition in W.P.No.17110/2018 and sought a direction to the Sub-Registrar, Pammal, Sub-Registrar Office, to register the petitioner's rectification deed dated 06.07.2018 and consequently, for another direction to the 3rd respondent therein, namely, the Deputy General Manager LPG Sales, Indian Oil Corporation Limited, Chennai, to extend the time for a further period of two weeks from 07.07.2018 to submit the petitioner's lease deed. The said Writ Petition was disposed of on 09.07.2018 after hearing both sides as follows:

2. Learned counsel for the petitioner fairly submitted that the first part of the prayer seeking a direction to the second respondent to register his rectification deed dated 05.07.2018 has been duly complied with by the second respondent making it clear that the said lease deed is valid for a period of 15 years, instead of 11 months. Therefore, now, the third respondent has to give two more weeks time to submit his lease deed. It is further submitted that when a lease deed was prepared for a period of 15 years, it was wrongly mentioned as 11 months. After seeing this defect, the third respondent, vide his letter

dated 28.06.2018, informed the petitioner that the said lease deed was not in consonance with the Unified Guidelines for Selection of LPG Distributorship-June 2017. Since the said mistake has occurred inadvertently, the petitioner has approached the second respondent and moved a rectification deed and thereafter, the second respondent also registered the rectification deed on 04.07.2018, whereby it is stated that the lease is valid for a period of 15 years from the date of the advertisement. Therefore, it is pleaded, in view of registration of rectification deed dated 04.07.2018, now, the petitioner has to submit all the documents before the third respondent, however, as the time for furnishing of the lease deed stood expired on 06.07.2018, a direction may be given to the third respondent to grant two more weeks time for submission of lease deed.

3. Learned counsel for the third respondent submitted that the petitioner may be permitted to submit a copy of the lease deed to the third respondent within a period of two weeks and thereafter, on receipt of the same, third respondent would consider his claim on merits.

4. It is seen that the third respondent/Deputy General Manager (LPG-Sales), Chennai Area Office, Indian Oil Corporation, in his letter dated 14.06.2018, has declared the petitioner as successful candidate in the draw of lots conducted on 13.06.2018 at 14:15 hrs. for selection of LPG Distributor, therefore, this Court finds no impediment to direct the third respondent to accept the rectification deed dated 05.07.2018 of the petitioner.

5. Accordingly, the petitioner is hereby directed to submit the rectification deed dated 05.07.2018 to the third respondent and on receipt of the same, the third respondent is directed to consider his claim within a period of two weeks thereafter on merits, as he has succeeded in the draw of lots. With this direction, the writ petition is disposed of. No Costs.

Thereafter, the petitioner presented the rectification deed before the Sub Sub-Registrar and got it registered and produced the same before the respondent, who in turn, passed the present impugned communication.

3. Mr.L.Chandrakumar, learned counsel for the petitioner submitted that once the rectification deed was executed and registered, the period referred to therein will have to be reckoned from the date of original lease agreement entered between the parties, and therefore, the respondent is not justified in stating that the lease period is short of 15 years. He further contended that the registration of the document, viz., the rectification deed was effected only in pursuant to the direction issued by this Court in the earlier writ petition and when the said order was passed in the presence of the respondent herein, he is not entitled to pass the present impugned order, which in effect is in violation of the directions issued by this Court in the earlier writ petition.

4. On the other hand, the learned counsel for the respondent contended that there is no bonafide on the part of the petitioner in getting the lease deed and presenting it before the authorities for considering his claim for distributorship. According to the learned counsel, the said original lease agreement itself was entered knowingly for 11 months and therefore, the subsequent rectification deed presented and registered, cannot cure the defect and thus, it was not taken into consideration as if the lease is for 15 years. He further submitted that once the lease is executed, it cannot be rectified later, as per the tender conditions.

5. Heard both sides.

6. There is no dispute to the fact that the petitioner was selected by drawal of lot for awarding the Distributorship. There is no dispute to the fact that the petitioner has presented the registered lease agreement dated 23.04.2018 before the respondent in respect of the subject matter site. It is true that the said lease agreement referred the period of lease as 11 months, whereas the requirement is 15 years. However, the petitioner and the owner of the said property entered into the rectification deed on 06.07.2018, thereby rectifying the period of lease as 15 years instead of 11 months. When the petitioner approached this Court and sought for a Mandamus in W.P.No.17110/2018 as stated supra, this Court, while disposing the said writ petition, has categorically found in paragraph No.4 of the order that there will not be any impediment for the 3rd respondent therein (respondent herein) to accept the rectification deed dated 05.07.2018 of the petitioner (It seems that the rectification deed was entered on 06.07.2018, however, it is referred to as 05.07.2018 in the earlier order). When this Court has directed the respondent herein to accept the rectification deed, it is not known as to how the respondent has chosen to pass the present impugned order by finding out some extraneous reasons doubting about the very execution of the

rectification deed itself and reject the same.

7. In my considered view, the very impugned order in this writ petition was passed in violation of the order passed in the earlier writ petition dated 09.07.2018. Direction issued by this Court to "accept" the rectification deed does not mean only to "receive". Certainly, both words have different meaning. Once this Court has specifically directed the respondent to accept the rectification deed, he is not entitled to reject the same. In fact, the petitioner could have filed the contempt proceedings against the respondent. However, he has chosen to file the present writ petition challenging the impugned order.

8. Considering the fact that the lease deed entered by the petitioner pursuant to the rectification deed is for 15 years and such 15 years has to be reckoned from the date of the original lease deed, this Court is of the firm view that the respondent is not justified in rejecting the lease deed as it is short of 15 years. Therefore, this Court finds every justification in allowing the writ petition and set aside the impugned order. Consequently, the Writ Petition is allowed, the impugned order is set aside and the respondent is directed to take into consideration of the lease deed dated 23.04.2018 and the rectification deed dated 06.07.2018 and pass appropriate orders on the subject matter Distributorship to the petitioner within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar(CS-I)

True Copy

Sub-Assistant Registrar

vsi/gsi

To

The Deputy General Manager,
(LPG-Sales),
Indian Oil Corporation Limited,
Indane Chennai Area Office,
500, Anna Salai, Teynampet,
Chennai - 600 018.

+1 CC to Mohammed Fayar Ali, Advocate sr 26894.

+1 CC to Mr.P.Krishnan, Advocate sr 26944.

W.P.No.19360 of 2018

KAN(CO)

SP(27/03/2019)