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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

and

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A. (MD) Nos.540 and 541 of 2019

and

C.M.P. (MD) Nos.4554; 4555 & 4557 to 4559 of 2019

P.Kumaresan

: Appellant in both the W.As.

Vs.

The Manager L.P.G.(s),
Indian Oil Corporation Limited,
Indance Area Office,
No.2, Race Court Road,
Chokkikulam,
Madurai - 625 002.

: Respondent in both the W.As.

COMMON PRAYER: Writ Appeals are filed under Clause 15 of Letters Patent Act, against the order dated 27.02.2019 passed in W.P.(MD) Nos.12254 and 15729 of 2018, respectively.

Prayer in WP(MD). 12254/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records of the Respondents resulting in the Respondents impugned communication dated 05.05.2018 served on the Petitioner on 25.05.2018 and quash the same and consequently directing the Respondent to accept the Registered Lease Document dated 16.03.2018 for the land situates in S.No. 160/3 at Govindangaram Village, Theni District dated 16.03.2018 as it is in consonance with conditions stipulated in the Brochure and application by conducting the Field Verification and thereupon grant LPG Distributorship to me in respect of the Reference Number IOC04113058625092017 to Govindanagaram, Theni District.

Prayer in WP(MD). 15729/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus calling for the records of the Respondent resulting in the Respondents impugned communication dated 04/06/2018 vide Ref.No. MAO/38/18 served on the petitioner on 12/06/2018 and quash the same and forbearing the Respondent from allotting the Distributorship at Govindanagaram village, Theni District in respect



of Reference Number IOC04113058625092017 to any other persons except to the petitioner.

For Appellant in
both the W.As. : Mr.V.R.Venkatesan

For Respondent in
both the W.As. : Mr.K.Muraleedharan

C O M M O N J U D G M E N T

[Order of the Court was made by **K.RAVICHANDRABAABU, J.**]

These Writ Appeals are filed challenging the common order passed by the Writ Court in W.P.(MD)No.12254 of 2018 and W.P.(MD) No.15729 of 2018, dated 27.02.2019. The Writ Court dismissed both the Writ Petitions and thus the writ petitioner is before us, as appellant.

2. The following are the short facts, which culminated in filing the present Writ Appeals:-

The respondent Oil Corporation invited applications for appointment of LPG Distributors in respect of the subject matter location. The petitioner/appellant applied for the same and was selected by draw of lots for the Distributorship under Durgam Kshetriya Vitrak (DKV) for Govindanagaram category. The application was made by the petitioner on 25.09.2017. He has shown a particular property as the property for locating the Godown as required in the notification. However, on field verification, the officials of the respondent Oil Corporation found that the property shown by the petitioner is not meeting the requirement and therefore, the petitioner was called upon to provide an alternative land on or before 09.03.2018. The petitioner/appellant made a request through letter dated 05.03.2018 seeking for extension of time. He has also approached this Court and filed Writ Petition in W.P.(MD)No.5015 of 2018 to prevent the respondent Oil Corporation from cancelling the allotment already made. This Court by order dated 08.03.2018 directed the respondent Oil Corporation not to cancel the allotment granted in favour of the petitioner, by taking note of the submission made by the learned counsel appearing for the petitioner seeking 15 days time to comply with the requirements sought under the communication, dated 28.02.2018. Thereafter, the petitioner taken a property on lease on 16.03.2018 and submitted the same before the authorities as the alternative land for considering his application for granting the dealership. However, the said offer was rejected by the Oil Corporation and the allotment issued in favour of the petitioner was cancelled. Challenging the said cancellation and also another communication issued by the Oil Corporation dated 04.06.2018, informing the petitioner that his candidature is rejected and that the security deposit made by the petitioner stands forfeited. Challenging the above communications, the petitioner has approached the writ Court and filed the above writ petitions. The



Writ Court, after considering all the facts and circumstances, dismissed the writ petitions on the reason that the petitioner acquired the property as alternative property, only after the date of the application and therefore, such offer is not a valid offer.

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3.Mr.V.R.Venkatesan, learned counsel for the appellant vehemently contended that when this Court has extended the time to the petitioner to provide alternative land, the respondent Oil Corporation is not justified in rejecting the land offered by the petitioner only on the reason that the same was acquired/taken on lease on a later date. He further contended that when the respondent Oil Corporation themselves called upon the petitioner to provide an alternative land, they should accept the land offered by the petitioner without reference to the date on which such land was acquired/taken on lease by the petitioner. Therefore, he contended that the Writ Court is not justified in dismissing both the writ petitions.

4.On the other hand, the learned counsel appearing for the respondent Oil Corporation, after inviting our attention to the terms and conditions stipulated in the brochure on unified guidelines for section of LPG Distributors, submitted that the alternative land to be submitted by the applicant should also be a land standing in the name of the applicant as on the date of the application and not to have been acquired subsequently. Therefore, the learned counsel submitted that the appellant/writ petitioner is not entitled to any indulgence before this Court, as the cancellation was made only by following the terms and conditions of the notification as well as the guidelines issued by the Oil Corporation for selecting the Distributors.

5.We have given our careful consideration to the submissions made by the learned counsel appearing for the appellant as well as the learned counsel appearing for the Oil Corporation and perused the materials placed before us.

6.There is no dispute to the fact that the original site shown by the petitioner was not acceptable to the Oil Corporation and consequently the petitioner was called upon to provide an alternative site for considering his application for distributorship. The Writ petitioner has not questioned the rejection of the original site shown by him. On the other hand, he has accepted to provide an alternative land. The unified guidelines issued by the Indian Oil Corporation clearly stipulates as to how the alternative land should be provided, in case the land originally offered by the applicant, at the time of application, is not acceptable to the Corporation. The relevant guideline No.8-J reads as follows:-

*"In case if the offered land for Godown and/or
offered land for showroom by the selected candidate which
is shown in the application is found not meeting the*



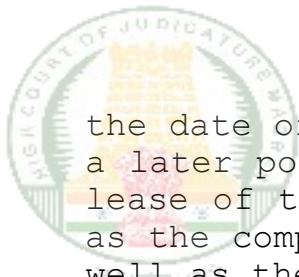
eligibility conditions / requirements as stipulated in the advertisement / brochure / application at the verification (FVC) stage, then the selected candidate can offer an alternative land which is owned by the applicant/member of the 'Family Unit' / parents (includes Step Father / Step Mother), grandparents (both maternal and paternal), Brother/Sister (including Step Brother & Step Sister), son/daughter (including Step Son/Step Daughter), Son-in-Law/Daughter-in-Law of the applicant or the spouse (in the case of married applicant) as on the last date for submission of application as specified either in the advertisement or corrigendum if any."

7.The guideline 18-a and b also reads as under:-

"a. Verification of the information given in the application by the applicant with the original documents and with the issuing authorities wherever required is called Field Verification of Credentials (FVC). Also the land offered for Godown and showroom (wherever applicable) will be verified for suitability with respect to eligibility conditions and suitability with respect to construction of Godown and showroom (wherever applicable). Field verification (FVC) will be carried out for the selected candidate.

b. During the FVC process, in case land mentioned by the applicant for godown/showroom in his application is found not meeting the eligibility conditions/requirements as stipulated in the advertisement/brochure/application form and if the applicant is having any alternate land in his name / member (s) of the family unit as per the definition of family unit for land of the applicant with date of registration of sale /lease on or before the last date for submission of application as specified either in the advertisement or corrigendum (if any), the same can be considered at the time of FVC. However, the same if considered has to be duly verified for its suitability during the FV. In case at the time of FVC, it is found that the all weather motorable road providing access to the Godown land is not available and if the candidate expresses his/her inability to ever provide the same, the candidate can offer an alternative land meeting the eligibility criteria. Such alternate land if considered has to be duly verified during the FVC for its suitability for providing LPG godown and showroom facility as mentioned herein above."

8.Perusal of the above guidelines dealing with the provision of alternative land would clearly indicate that the applicant, who is willing to provide an alternative land, in case the land originally offered by him is not acceptable to the Corporation, must be the owner or lessee in respect of the alternative land as well on



the date of the application itself and not to acquire such status at a later point of time. In other words, acquiring the land or taking lease of the same after making the application cannot be considered as the compliance of the terms and conditions of the notification as well as the guidelines issued by the Oil Corporation.

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9.No doubt, the learned counsel appearing for the appellant vehemently contended that this Court has granted extension of time for providing alternative land and therefore, when the petitioner has acquired the land within the time granted by this Court, such land cannot be rejected as not acceptable. We do not think that the above contentions can be accepted for the simple reason that when the Oil Corporation issued a letter dated 28.02.2018, they have specifically called upon the petitioner to provide alternative land by categorically indicating that such land must be in the name of the petitioner as on last date for submission of application. Therefore, the time extended by this Court is only to provide the alternative land as per the guidelines issued by the Corporation and not to acquire such alternative land after the date of the application. The writ petitioner's misconception of material requirement cannot come to his rescue for granting the relief. The Writ Court has considered all these aspects and rejected the writ petitions with which we find no reason to interfere.

10.Accordingly, both the writ appeals fail and the same are dismissed. No costs. Consequently, connected Miscellaneous Petitions are also dismissed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

The Manager L.P.G.(s),
Indian Oil Corporation Limited,
Indance Area Office,
No.2, Race Court Road,
Chokkikulam,
Madurai - 625 002.

+1cc to Mr.V.R.Venkatesan, Advocate, SR.No. 66691
+1cc to Mr.K.MURALEEDHARAN, Advocate, SR.No.66729

W.A. (MD) Nos.540 & 541 of 2019

Dated: 03.06.2019