



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

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W.P. (MD) No. 7323 of 2019
and W.M.P. (MD) No. 5846 of 2019

Thanveer Mohamed Hussain

... Petitioner

Vs.

1.The Territory Manager,
Trichy Retail Territory Office
Bharat Petroleum Corporation Ltd.,
1st Floor, Raj Towers,
Near Kalaignar Arivalayam
Karur Bye Pass Road
Trichy

2.R.Sabina Banu

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus to forbear the 1st respondent from granting retail outlet license in favour of the 2nd respondent in respect of location namely, Manapparai to Thuvarankurichi on SH71A.

For Petitioner : Mr.K.Govindarajan

For Respondents : Mr.S.Natesh Raja for R1
Mr.B.Saravanan for R2

ORDER

The prayer in the Writ Petition is for a Writ of Mandamus to forbear the 1st respondent from granting retail outlet license in favour of the 2nd respondent in respect of the location namely, Manapparai to Thuvarankurichi on SH71A.

2.I have heard the learned counsel for the petitioner and the learned counsel for the respondents.

3. The petitioner was one of the applicant to get dealership of petrol retail outlet to be established in SH 71A between Thuvarankurichi and Puthanatham, pursuant to the notification issued by the first respondent. As per the procedure in vogue, all the eligible applicants would be put into draw and pursuant to the drawal of lot, one candidate would be selected and once a candidate is selected, thereafter, after verifying the plot as well as the field



feasibility by two separate technical team in this regard constituted by the first respondent, final order of awarding the dealership would be issued by the first respondent.

4. In this mechanism, it is the grievance of the petitioner that, though he also participated and his name also was put into the drawal of lot, the second respondent was selected, but, as far as the second respondent selection is concerned, the petitioner's grievance is that, the land shown by the second respondent for the proposed petroleum retail outlet to be located is not a suitable land within the parameters or conditions imposed by the first respondent and therefore, a person, without having the suitable land, cannot have the dealership and therefore, the very selection of the second respondent made by the first respondent itself is unjustifiable and unlawful. Therefore, on that ground, the dealership shall not be conferred or given to the second respondent. Hence, for the said prayer, the present writ petition has been filed.

5. In response to the said ground raised by the petitioner's side, the learned counsel for the second respondent, who is the selectee, submitted that, the land shown by the second respondent for the proposed location of the petroleum retail outlet is a suitable land and it comes within the area earmarked by the first respondent under the notification, ie., between Thuvankurichi and Puthanatham on SH-71-A and the suitability of the land would be confirmed only after the field inspection is undertaken by the two separate technical team constituted by the first respondent and only after satisfaction of the same, final dealership order would be given and therefore, in this context, the petitioner cannot have any grievance.

6. The learned standing counsel appearing for the first respondent, on the other hand, would submit that, as per the brochure issued by the Bharat Petroleum Corporation Limited for all the oil Corporations, including the Hindustan Petroleum Corporation Limited, the procedure in vogue is that, once notification is issued inviting the interested applicants to have the petroleum outlet in the specified locality, as per the notification, all the applicants would be put into the drawal of lot and based on the drawal of lot only, the candidate would be selected.

7. Once the candidate is selected, thereafter, the local land evaluation committee as well as field verification committee constituted in this regard would visit the land in question earmarked by the successful applicant to have the petroleum outlet and after getting two separate reports of land as well as the field, by considering various aspects and after satisfying that, the land in question meet with the parameters fixed by the first respondent as per the notification, then only, final order of dealership would be given to the successful candidate. If at all the land is not found suitable as per the report of the committee,



even though a candidate has been selected on drawal of lot, that selection would be cancelled and thereafter further notice would be given to the remaining applicants and once again the remaining applicants would be put into drawal of lot, again, the same procedure will follow.

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8. In this regard, the learned counsel for the first respondent relied upon the following guidelines issued under the brochure issued by the first respondent:

"H.Land Evaluation:

The concerned Divisional/Regional/Territory Office shall inform the selected candidate thru e-mail/SMS at least 10 days before the day of visit by LEC for site evaluation. In case of no response/non-availability of the selected applicant, the candidature shall be cancelled under intimation to the selected candidate through SMS/e-mail.

Evaluation of the offered land will be carried out to ascertain land being in advertised area and suitable for development of RO-meeting norms. The parameters under which land will be evaluated by Land Evaluation Committee for suitability are:

- Land in advertised area/stretch
- Land dimensions as per requirement
- Land meets NHAI norms (for sites on NH)
- Land has no HT line (>11 KVA) crossing.

Land not meeting any of the above parameters will not be considered and will be rejected."

9. By making this submission, the learned standing counsel for the first respondent submitted that, as far as the present case is concerned, both the second respondent as well as the petitioner made applications and after drawal of lot, the second respondent was selected as successful candidate. In view of the selection, having been made by the first respondent, in favour of the petitioner, next, evaluation would be undertaken by the first respondent by sending the land assessment team as well as field verification committee and land evaluation committee would visit the land of the second respondent and after having inspected the land and also after having verified the documents and other feasibility, including, the infrastructure to be made or already been made to have this outlet, they will file separate reports to the first respondent and after having considered the said report, if the land in question belong to the second respondent, in this regard, is found suitable as per the conditions imposed by the first respondent Oil Company, then only, final order of awarding the petroleum outlet would be given.

10. Therefore, the learned counsel for the first respondent submits that, the present writ petition is a premature move on the



side of the petitioner and if at all the land of the second respondent is found to be not suitable, certainly, a turn would come to other remaining applicants, including the petitioner and it depends upon the decision to be taken by the two teams to be sent by the first respondent to have an assessment, as set out above.

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11. The learned counsel for the petitioner, in reply, would submit that, if the aforesaid procedure is scrupulously followed by the first respondent Oil Company and ultimately if the first respondent Oil Company is not satisfied after getting report from the two committees, let the first respondent go for further drawal of lot including the petitioner's candidature and this would be depending upon the decision, the first respondent going to take on the basis of the report to be submitted by the two committees.

12. The said reply made by the learned counsel for the petitioner is taken note of and in view of the said position that, the present issue as raised by the writ petitioner may not be the prime issue to be decided at this juncture, as the time has not come to decide the issue raised herein, as the issue raised by the petitioner would be an issue to be adjudicated, only if the 2nd respondent candidature is rejected, after getting report from the two committees, and that situation still has not arisen. Therefore, the prayer sought for herein cannot be granted.

13. In that view of the above discussions and observations, this Writ Petition fails, hence, the same is dismissed. If need arises in future, it is open to the petitioner to agitate the issue in the manner known to law. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(P & A)

// True Copy //

Sub Assistant Registrar(CS)

RR

To

The Territory Manager, Trichy Retail Territory Office
Bharat Petroleum Corporation Ltd.,
1st Floor, Raj Towers, Near Kalaingar Arivalayam
Karur Bye Pass Road, Trichy

+1CC TO MR.B.SARAVANAN, Advocate Sr. No.71421

+1CC TO MR.K.GOVINDARAJAN, Advocate Sr. No. 71529

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