



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 02.04.2019
CORAM

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 702 of 2015 and

M.P. (MD) No. 1 of 2015

WEB COPY

A. Manimaran

... Petitioner

Vs.

1. Hindustan Petroleum Corporation Ltd.,
Rep. by its Senior Regional Manager,
No. 82, T.T.K. Road, III Floor,
Alwarpet, Chennai - 18.

2. The Tahsildar,
Madurai East Taluk,
Madurai District.
(R-2 is impleaded vide order
dated 23.07.2018 in
W.M.P. (MD) No. 5360 of 2018)

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari Mandamus, calling for the records pertaining to the impugned order in Ref. CHNLRO/AVK/LPG dated 17.12.2014 on the file of the first respondent and quash the same as illegal and consequently for a direction, directing the first respondent to provide LPG distributorship under the RGGLV (Rajiv Gandhi Gramin LPG Vitrak) Scheme to the petitioner within the time period stipulated by this Court.

For Petitioner	: Mr. S. Rajasekar
For R-1	: Mr. M. Sridhar, Standing Counsel.
For R-2	: Mr. M. Rajarajan, Government Advocate.

ORDER

The Writ petitioner applied in response to the notification issued by the Hindustan Petroleum Corporation Limited inviting applications from eligible persons for appointment as LPG Distributor for Kathakinaru. But the petitioner's application was rejected by communication dated 17.12.2014. The reason for such rejection was that even though the notification required that the applicant must offer property at Kathakinaru, the Writ petitioner's property was located in K. Pappankulam. The first respondent took the stand that K. Pappankulam and Kathakinaru are two separate revenue villages and that therefore the Writ petitioner did not fulfill the criteria set out in the selection guidelines. This rejection order is under challenge in this Writ petition.



2. The learned Standing counsel appearing for the Corporation contended that the advertised location is Kathakinaru, while the land offered by the petitioner is situated at K.Pappankulam. He placed reliance on the decision reported in (2010) 8 SCC 372 (Basavaiah (Dr.) V. Dr.H.L.Ramesh and others). It was held by the Hon'ble Supreme Court in the said decision that when the correctness of the decision of the selection committee for awarding Distributorship of LPG is challenged, the Courts should normally be very slow to interfere with its opinion unless there is any allegation of mala fides. Admittedly, in this case there is no allegation of *mala fides*. He also placed reliance on the decision reported in CDJ 2015 MHC 6590 (The Territory Manager-LPG, Chennai LPG Territory, Bharat Petroleum Corporation Ltd., Tiruvellore V. R.K.Pradeep Raj) wherein it was held that the Corporation was justified in rejecting the application, when the applicant's showrooms did not fall within the location mentioned in the notification. The learned Standing counsel wanted this Court to sustain the order impugned in the Writ petition and dismiss the petition.

3. I am unable to agree with the stand of the respondent Corporation. This is because, the case on hand is squarely covered by the order dated 16.10.2014 passed by the Hon'ble Division Bench in W.A.No.950 of 2013. In the said case, the Indian Oil Corporation had issued an advertisement for awarding LPG distributorship under Rajiv Gandhi Village LPG Vitrak Scheme (RGGLV Scheme). The applicant applied for Pochampalli Division. When her application was scrutinised, it was seen that she had shown lands which as per the revenue records were located at Jambukuttapatti Village. The Corporation took the stand that the applicant did not satisfy the requirement set out in the notification. When she challenged the stand of the Corporation, the learned Single Judge took the view that the Corporation having advertised for location of the LPG godown in a particular place cannot be compelled to have the godown in Jambukuttapatti Village. But the Hon'ble Division Bench took a different view. It referred to the concept of the scheme. The brochure issued by the Corporation explains the concept in the following terms:

"Concept:

To make LPG available in rural areas. RGGLV will be sustainable for cluster of villages having about 4000 families.

*RGGLV will be set up for a group/cluster of villages having a potential of average monthly sale of 600 cylinders (refill sales) per month of 14.2 kg. and 1,800 customers considering monthly per capita consumption of 5 Kg. Proprietor himself along with one staff will operate the



same.

RGGLV would have an LPG storage Godown of much smaller size as compared to a normal distributorship Godown. Both LPG Godown and showroom will be located close by. The Godown would be sufficient to store minimum 300 filled cylinders to accommodate full truck load i.e License capacity of about 5000 Kg LPG as against present size of 12000 kg for urban distributors and 8000 kg for rural distributors.

A small showroom of the size 2.6 m X 3 m can be constructed near the Godown outside(safety zone) or in an existing nearby shop.

LPG cylinders (14.2 kg Refills) will be supplied to the customers on Cash and Carry basis with no rebate."

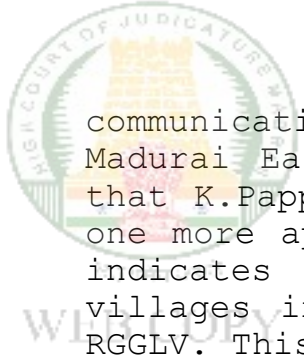
Clause 3.9 reads as under:

"Should own a suitable land(plot) of minimum 20 meter X 24 meter in the identified location for construction of LPG cylinder Storage Godown."

4. The Hon'ble Division Bench came to the conclusion that though the notified location was Pochampalli, since Jambukuttapatti was one of the hamlets of Pochampalli, the applicant very much fulfilled the eligibility norms. It was further held that it was only the revenue department that is competent to speak about the identification of the land in question. The conclusion of the Hon'ble Division Bench was as follows:-

"30. We have already pointed out the intention of the Scheme and its concept. It is clearly indicated therein 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 4,000 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. ... "

5. The case on hand is absolutely similar. The advertised location is Kathakinaru. But Kathakinaru is only a group village and K.Pappankulam is a part of the group village of Kathakinaru. The



communication issued by the jurisdictional Tahsildar(Tahsildar, Madurai East Taluk) addressed to the Government counsel indicates that K.Pappankulam falls with the limits of Kathakinaru. There is one more approach to the issue on hand. Clause 3.2 of the brochure indicates that the applicant must be a resident of one of the villages in the cluster of villages identified for appointment of RGGLV. This itself is a clear give-away. The name Kathakinaru in the notification does not indicate an isolated revenue village. It is a compendious reference to a cluster of villages. That is why a person residing in any one of the villages in the cluster of villages is eligible to apply. If that be so, the land owned by him can also be located in any one of the villages in the cluster of villages. The certificate issued by the revenue authority categorically indicates that K.Pappankulam is one of the villages in the cluster of the villages known as Kathakinaru.

6. Respectfully following the decision rendered by the Hon'ble Division Bench in W.A.No.950 of 2013, dated 16.10.2014, I quash the impugned communication. The first respondent is directed to award LPG distributorship under RGGLV scheme in favour of the Writ petitioner subject to fulfilling the other requirements laid down in this scheme.

7. The Writ petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (co)

// True Copy //

Sub Assistant Registrar(CS)

To

1. Hindustan Petroleum Corporation Ltd.,
Rep. by its Senior Regional Manager,
No.82, T.T.K.Road, III Floor,
Alwarpet, Chennai - 18.

2. The Tahsildar,
Madurai East Taluk,
Madurai District.

+1cc to Mr.M.Sridhar,Advocate, SR.No.58397

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SP/16.04.2019/ 4P/4C