IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2020

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.11402 of 2010
and
MP.No.2 of 2010

R.Rubavathi ... Petitioner

Vs

1. The Senior Regional Manager,
Hindustan Petroleum Corporation Ltd.,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
PB No.3045, Egmore,
Chennai - 600 008.

2. The Dealer Selection Committee
for LPG Distributorship,
Hindustan Petroleum Corporation Ltd.,
Chennai LPG Regional Office &
LPG Plant, J12, Sipcot Industrial Area,
Phase - II, Kumbdipoondi - 601 201,
Thiruvalluvar District.

3. Amudha Madhavan* .... Respondents
* Impleaded as per Order
dated 02.11.2011 in MP No.1 of 2011



*Prayer:
Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to the impugned order passed by the first respondent in his proceedings BRS/LPG, dated 12.04.2010 and the consequential order in Ref.CHNLRO/BRS/LPG, dated 15.04.2010 and quash the same as illegal.



* Prayer amended as per order dated 11.03.2010
in MP No.2 of 2011.

For petitioner : Mr.B.Saravanan

For respondents: Mr.K.Ravi Anantha Padmanaban for R1 and R2
Mr.D.Baskar for R3

ORDER

This writ petition has been filed challenging the order dated 12.04.2010 passed by the first respondent.

2. The case of the petitioner is that pursuant to a Notification, dated 06.02.2008 issued by the respondent Corporation, she applied for LPG Distributorship under Open Women Category. According to the petitioner, she is eligible to apply for LPG Distributorship and she complied with all the terms and conditions.

3. It is the case of the petitioner that she has also participated in the interview conducted by the second respondent on 19.11.2008 for the appointment as a Dealer for the location at Thirukazhukundram, Kancheepuram District. It is her case that the committee after verification of all the available materials awarded the petitioner 33.30 marks for her capacity to arrange finance and in total 86.30 marks were awarded to her and she was declared as the first candidate for award of LPG Distributorship. According to the petitioner, she having been declared as the first candidate for award of LPG Distributorship in the location at Thirukazhukundram, Kanchipuram District, she was awaiting for the issuance of letter of intent by the respondent Corporation. However, according to her shock, the first respondent passed the impugned order, dated 12.04.2010 stating that she was disqualified.

4. According to the first respondent, the petitioner is disqualified for the reason that she has declared her Annual Income under Clause 14.1 of the application pertaining to the financial year 2006-07 as Rs.3,36,000/- and accordingly 3.3 marks were awarded. However, during the field verification by the officials of the respondent Corporation, it was found that no supporting document was made available by the petitioner to substantiate her income declared in the application and on the contrary, the income tax return of the petitioner was filed only on 12.06.2009. Since no proof of income was furnished by the petitioner, 3.3marks awarded to the petitioner by the respondent Corporation was deducted and consequently, the petitioner was placed one position below in the merit panel. The respondents have also rejected the application of the petitioner on another ground also viz., that there were overhead power transmission

lines passing through the godown area in the premises of the petitioner at Thirukazhukundram, Kancheepuram district.

5. Aggrieved by the impugned order dated 12.04.2010 passed by the first respondent rejecting the application for LPG Distributorship, the petitioner has filed this writ petition.

6. A counter affidavit has been filed by the first and second respondents. According to them, the petitioner has not furnished any proof of income. Further according to them, when their officials made a field inspection of the petitioner's premises, they found that there were overhead power transmission lines passing through the petitioner's land. It is their case that since the petitioner did not produce proof of income, the 3.3 marks awarded to the petitioner earlier had to be deducted and because of the said reason, the petitioner was placed one position below in the merit panel and was not entitled for LPG Distributorship. Further, it is their case that even on the date of submitting of the application by the petitioner, the overhead power transmission lines were very much available in the premises of the petitioner and hence the petitioner's property was not suitable for LPG Distributorship. It is also their case that they cannot be held responsible to the petitioner towards costs incurred by her for removing the overhead power transmission lines.

7. According to the third respondent, who has been awarded the LPG Distributorship subsequently by the first and second respondents has stated in her counter affidavit that only after satisfying all the requirements, she was awarded the LPG Distributorship. It is also her case that the petitioner is not entitled to get 3.3 marks as she has not produced any proof of income to the respondent Corporation. Further, it is stated that Clause 13-A of the application makes it clear that the plot should be free from overhead power transmission and telephone lines. According to her, the first and second respondents have rightly rejected the application of the petitioner as she has not satisfied their requirements. Further, the third respondent has stated that based on the letter of intent issued by the respondent corporation on 15.04.2010, an appointment letter was given to the third respondent on 23.09.2010 and she became the HP Gas Distributor at Thirukazhukundram. It is also stated in the counter affidavit that she has more than 10000 customers and she has also borrowed funds from banks for running the Distributorship business.

8. Heard Mr.B.Saravanan, learned counsel for the petitioner, Mr.K.Ravi Anantha Padmanaban, learned counsel for the the first and second respondents and Mr.D.Baskar, learned counsel for the third respondent.

Discussion :-

9. Admittedly, as on the date of the application submitted by the petitioner for LPG Distributorship with the first and second respondents, the overhead transmission lines were passing through his plot at Thirukazhukundram, which land was sought to be ultilised by him for LPG Distributorship business. A precondition as seen from Clause 13-A of the application is that there should not be any overhead transmission lines passing through the plot. It is also not in dispute as seen from the correspondence available in the Typed set of papers that the transmission lines were removed only after the submission of the application for LPG Distributorship by the petitioner. As seen from the records, the petitioner has paid the charges to the TANGEDCO for removing the electricity transmission lines on 03.04.2009, whereas the application submitted by her with the second respondent was on 09.03.2008. As seen from the records, the petitioner hasdisclosed that in her application that her gross Annual Income was Rs.3,36,000/-. It is the case of the respondents/ Corporation that no proof of income was produced in support of the petitioner's gross Annual Income. Even before this Court, the petitioner has not produced any documentary evidence to prove that she was earning a gross Annual Income of Rs.3,36,000/- on 09.03.2008, i.e., on the date of application.

10. Admittedly, as seen from the records, the Income Tax returns was filed by the petitioner only on 12.06.2009 for the Assessment year 2006-2007. So, it can be conclusively established that the petitioner has failed to produce reliable proof to substantiate her income as disclosed in her application for Distributorship. Only after the field inspection by the officials of the first and second respondents, they found that there were overhead transmission lines passing through the plot of the petitioner, which makes her ineligible to obtain LPG Distributorship. The petitioner has suppressed all these facts, while submitting the application for LPG Distributorship with the second respondent. Further, the third respondent has already been awarded the contract and she has been doing the business ever since 2010 and it is her case that she is having 10000 customers and she has also borrowed funds from financial institutions for running her Distributorship business. Any step taken by this Court to re-open the investigation regarding the awarding of the subject LPG Distributorship will be detrimental to the interest of the third respondent for no fault of hers.

11. For the foregoing reasons, this Court is of the considered view that there is absolutely no merit in this writ petition and accordingly, the writ petition stands dismissed.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

vsi2

To

1. The Senior Regional Manager,
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Phase - II, Kumbdipoondi - 601 201,
Thiruvalluvar District.

+1cc to Mr.B.Saravanan, Advocate, S.R.No.179
+1cc to Mr.D.Baskar, Advocate, S.R.No.344
+1cc to Mr.K.Ravi Anantha Padmanaban, Advocate, S.R.No.133

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EV(CO)
CS/12/02/2020