

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2020

CORAM :

The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SUBRAMONIUM PRASAD

W.P.No.3266 of 2018 and WMP No.4010 of 2018

Mr.B. Subhan Sherif (deceased)

Mrs.Abithabee

(Substituted as LR of deceased sole
petitioner as per order dated 12.12.2019
in WMP No.30727 of 2019)

... Petitioner

vs

1. Union of India
rep by its Secretary to the Government
Ministry of Petroleum and Natural Gas
Shastri Bhavan, New Delhi - 110 001 (India)
2. Indian Oil Corporation Ltd,
Rep by its Regional Manager (LPG Operations),
Tamil Nadu State Office, Indian Oil Bhavan,
No.139, Nungambakkam High Corad,
Chennai - 600 034.
3. The Chief Area Manager,
Indane Area Office,
B-35, II Floor, Sastry Road,
Thillai Nagar, Trichy,
Tamil Nadu - 620 018
- 4.Kantha Raj ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Mandamus directing the second respondent to issue fresh Notification for appointment of LPG Distributorship for Valathi area consequently amending the Rule 8(i)(iii) of the Guidelines on selection of LPG distributors appropriately without overlapping the area of operation of successful candidates of the other areas.

For Petitioner	: Mr.D.O. Kaviyanathan
For 1 st Respondent	: Mr.P. Saravanan
For 2 nd Respondent	: Mr.Mohammed Fayaz Ali
For 3 rd Respondent	: No appearance
For 4 th Respondent	: Mr.R. Arun Dattan

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

The petitioner has filed the writ petition calling upon the second respondent / Indian Oil Corporation to issue a fresh Notification in respect of appointment of LPG distributorship under Rajiv Gandhi Gramin LPG Vitrak Yojna and for a further direction that appropriate measures should be taken by framing guidelines or Rules so as not to overlap the area of operation of successful candidates of the other areas.

2. The background in which the relief has been prayed for indirectly raises a dispute relating to award of dealership. The petitioner had applied for a LPG dealership in Avalurpet. This became subject matter of objection and litigation, but, ultimately, the petitioner was provisionally selected for the said dealership. The dealership could not be, however, commissioned on account of an interim order passed in W.P.(MD) No.4995 of 2017 dated 23.02.2017, which was filed by one V. Dhanasekaran. The said writ petition was however dismissed as withdrawn on 18.09.2018, but, it is stated by the learned counsel for the Indian Oil Corporation that restoration has been sought by the petitioner therein. The fact remains that the Indian Oil Corporation has not yet awarded the Letter of Intent to the petitioner nor any agreement has been entered into between the petitioner and the Indian Oil Corporation.

3. In between, another dealership was advertised for Valathi village and the said dealership was awarded to fourth respondent / Mr.Kantha Raj. The petitioner has now come up contending that the fourth respondent has been awarded dealership, which is very close by and within 15 kms radius of the location of the dealership of the petitioner at Avalurpet. It is this violation of distance that has been alleged, which is likely to affect the dealership of the petitioner and is the basis of challenge in this writ petition.

4. We had posed certain questions calling upon the petitioner to clarify the same vide order dated 05.02.2020.

5. Learned counsel for the petitioner has invited the attention of the Court to clause - 1(c)(ii) to urge that under the guidelines, the dealership is awarded for a specified Rural Area covering villages within the radius of 15 kms. The said definition clause is extracted hereunder:-

" 1. C. Type of Distributorship Area:
ii. Gramin Vitrak: In this document, the word ' Rural Area' will have the definition of 'Rural' as per census 2011. LPG distributorship located in 'Rural Area' will be called as Gramin Vitrak and will service the LPG Customers of the specified rural area. Generally it will cover all villages falling within 15 Kms from the boundary limits of the LPG distributorship location and or the area specified by the respective OMCs."

6. On the strength of the said clause, learned counsel advances his submissions that in the event, the fourth respondent is allowed to set up his godown and operate or even locate his dealership within the area specified, then, in that event, this will amount to violation of guidelines and directly affect the right of the petitioner to operate within the radius of 15 kms and hence, interference is called for to issue necessary directions to the Indian Oil Corporation in this regard.

7. We have considered the submissions raised and we find that there is no such restriction placed prohibiting opening of a godown or dealership within the radius of 15 kms. What has been provided in the definition clause is " Generally it will cover all villages falling within 15 Kms from the boundary limits of the LPG distributorship location" . It may be possible that there is some overlapping, but, that itself does not create any right in a rival LPG Distributor to raise a challenge to that effect, more so, on the facts and circumstances of the present case, where, dealership has not yet been finally awarded to the petitioner, nor any agreement has been entered into. In the said background, we are unable to appreciate this argument that the second respondent / Indian Oil Corporation deserves to be given a direction not to allow the location of the godown of the fourth respondent within the radius of 15 kms from the location of the petitioner's proposed dealership, which is yet to be finally awarded.

8. The writ petition, therefore, lacks merits and accordingly, consigned to records. No merits. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

// True Copy//

Sub Assistant Registrar

sr

To

1. The Secretary to the Government
Union of India,
Ministry of Petroleum and Natural Gas
Shastri Bhavan, New Delhi - 110 001 (India)
2. Indian Oil Corporation Ltd,
Rep by its Regional Manager (LPG Operations),
Tamil Nadu State Office, Indian Oil Bhavan,
No.139, Nungambakkam High Corad,
Chennai - 600 034.
3. The Chief Area Manager,
Indane Area Office,
B-35, II Floor, Sastry Road,
Thillai Nagar, Trichy,
Tamil Nadu - 620 018.

+1cc to Mr.Mohammed Fayaz Ali, Advocate, SR.No.10283.
+1cc to Mr.Nathan, Advocate, SR.No.11490.
+1cc to Mr.R.Arun Dattan, Advocate, SR.No.10512.
+1cc to Mr.K.Raju, Advocate, SR.No.CGSC, 10277.

W.P.No.3266 of 2018

MG (CO)
CSR: 02.03.2020

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