



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 17.02.2020
CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.31035 of 2012
and
MP No.2 of 2012

P.Suresh Kumar

...

Petitioner

Vs

1. The District Collector,
Collectorate,
Dindigul - 624 004.

2. Revenue Divisional Officer,
Palani (Tk),
Dindigul District.

3.Hindustan Petroleum Corporation Ltd.,
Registered office : 17,
Jamshedji Tata road,
Mumbai - 400 020.

4. The Chief Regional Manager (LPG),
Hindustan Petroleum Corporation Ltd.,
"Petro Bhavan",
3rd Floor,
New No.82, Old No.47,
TTK Road,
Alwarpet,
Chennai - 600 018.

5.S.Sasikala

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent herein in respect of the impugned communication of the Revenue Divisional Officer O.Mu.No.408/2012/A4, dated 21.02.2012 the 2nd respondent herein sent to the District Collector, Dindigul and the impugned communication of the 1st respondent District Collector in Na.Ka.No.12338/2011/R3, dated 09.04.2012, sent to 4th respondent Chief Regional Manager (LPG), Hindustan Petroleum Corporation and quash the same and consequently direct the 1st respondent



District Collector to conduct an impartial enquiry by a higher authority than the Revenue Divisional Officer, Palani, the 2nd respondent herein, to ascertain the fact with regard to the residential status of the petitioner herein and send a fresh report to the 4th respondent herein.

For petitioner	: Mr.T.R.Rajagopalan, Senior Counsel for Mr.C.V.Vijayakumar
For respondents	: Mr.R.S.Selvam, Govt. Advocate for RR1 & 2 Mr.O.R. Santhanakrishnan for R3 & R4 Mr.R.Sivaraman for R5

ORDER

This writ petition has been filed challenging the communication dated 09.04.2012 issued by the first respondent and also seeking for a consequential direction to the first respondent to conduct an impartial enquiry by an higher authority than the Revenue Divisional Officer, Palani, the second respondent herein to ascertain the fact with regard to the residential status of the petitioner and send a fresh report to the fourth respondent herein.

2. It is the case of the petitioner that he had applied for allotment of Distributorship of LPG cylinders under open category for Keeranur village, Palani Taluk, Dindigul District. According to him, he has satisfied all the requirements of the third respondent for allotment of LPG distributorship in his name. According to the petitioner, the fifth respondent has also applied for LPG distributorship for Keeranur village. According to the petitioner based on a false complaint, given by the fifth respondent, the third respondent has called for a report from the first respondent with regard to the residential status of the petitioner.

3. It is the case of the petitioner that the second respondent by its earlier report, dated 26.11.2011 informed the first respondent that the petitioner is a resident of Keeranur village only. A copy of the said report dated 26.11.2011 was also sent to the petitioner. However, it is the case of the petitioner that the same officer, who gave a report dated



26.11.2011 has sent a subsequent report to the first respondent 21.02.2012 stating that the petitioner is not a permanent resident of Keeranur Village and is a resident of Porulur village, Ottanchathiram Taluk. Based on the report, dated 21.02.2012 submitted by the second respondent, the first respondent has passed the impugned order dated 09.04.2012 declaring that the petitioner is not a permanent resident of Keeranur village. Aggrieved by the order dated 09.04.2012 passed by the first respondent, this writ petition has been filed.

4. A counter affidavit has been filed by the respondents 1 and 2. They have stated that the petitioner is not a permanent resident of Keeranur village, as seen from the report dated 21.02.2012 submitted by the second respondent to the first respondent. It is their case that the petitioner is a permanent resident of Porulur and not Keeranur village.

5. Heard Mr.T.R.Rajagopalan, learned Senior Counsel for the petitioner, Mr.R.S.Selvam, learned Government Advocate for 1st and 2nd respondents, Mr.O.R.Santhanakrishnan, learned counsel for the 3rd and 4th respondents and Mr.R.Sivaraman, learned counsel for the 5th respondent.

6. The only ground for challenge in this writ petition is that principles of natural justice have been violated by the first respondent. According to the learned Senior counsel for the petitioner, no prior notice was given nor any enquiry conducted before passing of the impugned order dated 09.04.2012 by the first respondent holding that the petitioner is a permanent resident of Porulur village and not Keeranur village.

7. The learned Senior counsel for the petitioner also drew the attention of this Court to an earlier report dated 26.11.2011 submitted by the second respondent to the first respondent wherein, it was declared by the second respondent that the petitioner is a permanent resident of Keeranur village only. According to him, the same officer, who gave the report dated 26.11.2011 has submitted another report dated 21.02.2012, which declares that the petitioner is not a permanent resident of Keeranur village contrary to the earlier report dated 26.11.2011. According to him, no notice was given nor any enquiry conducted prior to the submission of the report dated 21.02.2012 by the second respondent to the first respondent. It is his case that principles of natural justice have been violated and hence, the writ petition is maintainable.

8. Per contra, the learned counsel for the fifth respondent would reiterate that the petitioner is not a permanent resident of Keeranur village and the report dated 26.02.2012 is a correct



one as the petitioner is a resident of Porulur village only and not Keeranur village. Further, it is his case that even under the first report dated 26.11.2011, the second respondent has only declared that the petitioner was a resident of Keeranur village only for the past six months and therefore, he is not a permanent resident of Keeranur village.

Discussion :

9. This Court has perused and examined the impugned order dated 09.04.2012 passed by the first respondent. As rightly contended by the learned Senior Counsel for the petitioner, no prior notice was issued nor any enquiry conducted prior to the passing of the impugned order by the first respondent. Admittedly, the officer, who has submitted the second report dated 21.02.2012 is the same officer, who submitted the first report dated 26.11.2011 to the first respondent. Admittedly, before passing of the first report dated 26.11.2011, notice was issued to the petitioner and enquiry was conducted but with regard to the second report dated 21.02.2012, it is an admitted fact that no notice was given to the petitioner nor any enquiry conducted.

10. For the foregoing reasons, this Court is of the considered view that principles of natural justice have been violated under the impugned order as no opportunity was given to the petitioner to establish that he is a permanent resident of Keeranur only. In view of the same, the impugned order dated 09.04.2012 is hereby quashed and the matter is remanded back to the first respondent for fresh consideration and the first respondent shall pass final orders on merits and in accordance with law, after hearing both the petitioner as well as the fifth respondent and after affording personal hearing to both of them, within a period of eight weeks from the date of a receipt of a copy of this order. It is made clear that while passing final orders, the first respondent shall give reasons for acceptance or rejection while considering the reports dated 26.11.2011 and 21.02.2012 submitted by the second respondent to the first respondent.

11. With the aforesaid directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

vsi2



To

1. The District Collector,
Collectorate,
Dindigul - 624 004.

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New No.82, Old No.47,
TTK Road,
Alwarpet,
Chennai - 600 018.

+5ccs to Mr.C.V.Vijayakumar , Advocate SR.No. 13937
+1cc to Mr.O.R.Santhanakrishnan , Advocate SR.No. 12957
+1 cc to Government Pleader Sr.No. 12020

W.P. No.31035 of 2012

A.SK(19/03/2020)