

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2020

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.8792 of 2020

and

W.M.P.Nos.10672 and 10673 of 2020

M/s. Joseph Trading Corporation,
rep. By its Partner Mr.P.Sathyanathan,
33/57, Aruna Nagar
Puttur,
Tiruchirapalli District.

... Petitioner

Vs

1. The District Collector,
Perambalur District,
Perambalur 621 212.

2. The General Manager and
State Level Co-ordinator,
Indian Oil Corporation,
Indian Oil Bhavan,
Nungambakkam High Road,
Chennai - 600 034.

3. The Senior Divisional Manager,
Indian Oil Corporation Ltd.
Marketing Division,
Madurai Divisional Office,
No.2. Race Course Road,
Chokkikulam,
Madurai - 625 002.

4. The Chief Divisional Retail Sales Manager,
Indian Oil Corporation Ltd.
Marketing Division,
Trichy Divisional Office,
B-35, 3rd Floor, Shastri Road,
Thillainagar,
Trichy - 620 018

.. Respondents

Prayer:

Writ Petition filed under Section Article 226 of the Constitution of India praying Writ of Certiorarified Mandamus to call for the records of the 1st respondent in Na.Ka.S2/35546/2002 dated 03.03.2020 and of the fourth respondent in Ref.No.4105/S.K.O dated 28.01.2020 and quash the same and direct the respondent 4 to include the name of the petitioner in the Kunnam or Alathur Taluk area of operation in Perambalur District in the memorandum of agreement made on 18.05.2009 between the petitioner and the respondent 4 and direct the respondent 1 to allot the kerosene allotment to the petitioner from the month of April 2020 until further orders.

For Petitioner : Mr.M.Baskar

For Respondents : Mr.R.Govindasamy
Special Government Pleader
for R1
Mr.Mohammed Fayaz Ali
Standing Counsel for R2 to R4

O R D E R

This matter is taken up for hearing through Video-Conferencing mode.

2. This Writ Petition is filed challenging the proceedings of the fourth respondent dated 28.01.2020, wherein and whereby, the petitioner's request for inclusion of Kunnam or Alathur Taluk in Perambalur District as area of operation in the existing Dealership Agreement, was rejected by stating that the allocation of area of operation is within the purview of the District Administration and the Indian Oil Corporation has no role to play on the same.

3. Heard Mr.M.Baskar, learned counsel for the petitioner, Mr.R.Govindasamy, learned Special Government Pleader appearing for the 1st respondent and Mr.Mohammed Fayaz Ali, learned Standing Counsel appearing for the respondents 2 to 4.

4. The petitioner was appointed as a kerosene whole sale dealer in the year 1971. When a dispute arose in respect of allotment of quota and also in respect of the

area of operation in Kunnam Taluk, Perambalur District, the very same petitioner filed two writ petitions in W.P.No.43020/2002 and 14101/2010, challenging the proceedings dated 14.11.2002 and 07.06.2010 respectively. Both the Writ Petitions were taken up and disposed of on 30.09.2019 by passing the following order.

"The learned counsel for the petitioner seeks permission of this Court to withdraw these writ petitions with liberty to the petitioner to approach the Indian Oil Corporation seeking for dealership in respect of Kunnam or Alandur Taluk, in Perambalur District and he has also made an endorsement to that effect.

2. In view of the submission and endorsement made by the learned counsel for the petitioner, both the writ petitions are dismissed as withdrawn, however, it is open to the petitioner to approach the Indian Oil Corporation seeking for dealership in respect of Kunnam or Alathur Taluk in Perambalur District by filing application. On receipt of such application, the Indian Oil Corporation is directed to consider the same and pass suitable orders on merits and in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed."

5. Pursuant to the above said order of this Court, the petitioner filed an application on 18.11.2019, where he sought for inclusion of Kunnam or Alathur Taluk area in the existing agreement in Perambalur District. The said request was rejected through the impugned order in this writ petition.

6. Mr.M.Baskar, learned counsel for the petitioner submitted that when this Court has granted liberty to the petitioner to approach the Indian Oil Corporation in respect of Kunnam or Alathur Taluk in Perambalur District and when such application is filed, the Indian Oil Corporation cannot reject the application by directing the petitioner to approach the District Administration.

7. On the other hand, the learned Standing Counsel appearing for the respondent Corporation submitted that the petitioner wanted only for inclusion of Kunnam or Alathur Taluk in the existing dealership agreement and not made fresh application for dealership for Kunnam or Alathur Taluk area in Perambalur District.

8. Upon hearing both sides and on perusal of the order already passed by this Court in W.P.Nos.430206/2002 and 14101/2010, it appears that the very same petitioner, who filed those two writ petitions, had withdrawn the same with liberty to approach the Indian Oil Corporation seeking for dealership in respect of Kunnam or Alathur Taluk in Perambalur District. It is further seen that by taking note of such request, this Court, dismissed both the writ petitions as withdrawn, however by granting liberty to the petitioner to approach the Indian Oil Corporation seeking for dealership in respect of Kunnam or Alathur Taluk in Perambalur District by filing application with further direction to the Indian Oil Corporation to consider the said application and pass suitable orders on merits and in accordance with law. When such being the order passed by this Court, I find that the application filed by the petitioner dated 18.11.2019, made available in the typed set of papers, is not an application seeking for dealership in Kunnam or Alathur Taluk area in Perambalur District and on the other hand, it is an application seeking for inclusion of Kunnam or Alathur Taluk in Perambalur District in the existing agreement. Therefore, I find that the petitioner has not made the application for dealership as projected by them before this Court in the above two writ petitions while withdrawing the same.

9. Needless to say that when the said order has become final and binding on both the parties, the petitioner cannot now simply seek inclusion of those two areas in the existing agreement without applying for dealership in respect of those areas. Needless to say that if an application is filed by them, the Indian Oil Corporation will consider the same and pass suitable orders on merits and in accordance with law as directed by this Court earlier.

10. Accordingly, the Writ Petition is disposed of by granting liberty to the petitioner to apply for dealership in respect of Kunnam or Alathur Taluk in Perambalur District. If any such application is filed, the Indian Oil Corporation shall consider the same and pass suitable orders on merits and in accordance with law, as has been directed by this Court in the above two writ petitions. The petitioner is given liberty to file such application within a period of two weeks from the date of receipt of a copy of this order. If any such application is filed, the Indian

Oil Corporation shall consider the same and pass suitable orders on merits and in accordance with law within a period of four weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

vri/vsi

To

1. The District Collector,
Perambalur District,
Perambalur 621 212.
2. The General Manager and
State Level Co-ordinator,
Indian Oil Corporation,
Indian Oil Bhavan,
Nungambakkam High Road,
Chennai- 600 034.
3. The Senior Divisional Manager,
Indian Oil Corporation Ltd.
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Indian Oil Corporation Ltd.
Marketing Division,
Trichy Divisional Office,
B-35, 3rd Floor, Shastri Road,
Thillainagar,
Trichy - 620 018

+3cc to Mr.Baskar, Advocate, S.R.No.25080

W.P.No.8792 of 2020

(CO)

CB(28/07/2020)