

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2020

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.11716 of 2019

and

W.M.P.Nos.11935, 11937 of 2019 & 2734 of 2020

S.Baskar

S/o.Sivasamy

...Petitioner

vs.

The Regional Manager

Hindustan Petroleum Corporation Limited

No.9, Second Floor,

MDSR Enclave

Bharathidasan Road,

Cantonment, Trichirapalli - 620 001.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the entire records relating to the respondent's order dated 22.02.2019 and quash the same and consequently, directing the respondent to permit the petitioner to modify Serial 9 of the application from Group 2 to Group 1 and to consider the candidature under the category Group 1 for selection to the Sendurai Town Location Petrol Outlet.

* Prayer amended as per order dated 03.02.2020 made in W.M.P.No.2407 of 2020 in W.P.No.11716 of 2019

For Petitioner : Mr.R.Gokulakrishnan

For Respondent : Mr.M.Vijayan

O R D E R

This writ petition is filed for issuance of writ of Certiorarified Mandamus by challenging the proceedings of the respondent dated 22.02.2019 with a consequential prayer seeking for a direction to the respondent to permit the petitioner to modify Serial No.9 of the application from Group-II to Group-I and to consider the candidature of the petitioner under the category Group-I for selection to the Sendurai Town Location Petrol Outlet.

2. Short facts and circumstances of the present case are as follows:

The respondent-Petroleum Corporation invited tenders for locating the petroleum outlet at Sendurai Town. There are three groups, under which, the applications can be made viz., Group-I, Group-II and Group-III. Under the Group-I category, the applicant must hold the land either in his name or in the name of his relatives. It also includes holding a long term lease from the land owner. Group-II relates to the case, where the land is offered by third parties based on agreement for purchase or long term lease. Group-III deals with the applicants, who have not offered land. The petitioner made online application on 20.12.2018 by choosing the category Group-II. The last date for submission of the application was 25.12.2018. On 29.12.2018, the petitioner made a representation for changing the Group from Group-II to Group-I. According to the petitioner, due to typographical error, Group-II was mentioned wrongly in the application, instead of mentioning Group-I. Thereafter, he approached this Court and filed a writ petition in W.P.No.430 of 2019 seeking for mandamus directing the respondent to permit the petitioner to modify Serial No.9 of the application from Group-II to Group-I. The said writ petition was disposed of on 29.01.2019 by directing the respondent to consider the petitioner's representation in terms of the regulations and pass appropriate orders on merits and in accordance with law, after issuing notice to the petitioner and also affording him an opportunity of hearing. Thereafter, the impugned order was passed on 22.02.2019 by rejecting the request of the petitioner on the reason that the change of Group in the application cannot be done, after the last date for submission of the application viz., 25.12.2018.

3. The learned counsel for the petitioner submitted that if the typographical mistake made in the online application is allowed to be corrected, no prejudice would be caused to the respondent in any manner. He also submitted that the petitioner has already taken a demand draft for a sum of Rs.5,000/- on 13.02.2019 itself for making such correction and therefore, the genuine cause of the petitioner cannot be doubted.

4. On the other hand, the respondent filed a counter affidavit and contended that the last date for submitting the application was 25.12.2018 and the petitioner having submitted the application on 20.12.2018, he had enough time to cancel the said application and submit another application within the cut off date. Thus, it is stated that the petitioner is bound by the brochure, wherein, it

is stated that no change in the application will be entertained after the last date of submission of the application.

5. The learned counsel for the petitioner, after reiterating the above contentions raised in this writ petition, further submitted that one more chance may be given to the petitioner to participate in the tender process, so that a right person can be selected by the respondent.

6. The learned counsel for the respondent, on the other hand, submitted that in pursuant to the tender notification, applications were received and the drawal of lot was conducted on 11.11.2019 and one Ramesh Kumar was selected on the very same day and that only certificate verification is pending. He further submitted that because of the pendency of this writ petition, further process of selection could not be completed.

7. Heard both sides and perused the materials placed before this Court.

8. It is seen that the petitioner while making online application selected Group-II. After the last date for submitting the online application, the petitioner wanted to change the Group from Group-II to Group-I by contending that there was some typographical mistake. It is an admitted fact that the very representation made by the petitioner for making such correction was after the last date for receiving the online application. Perusal of the guidelines issued by the Petroleum Corporation would clearly indicate that once the application form is submitted successfully, it cannot be edited or changed. As rightly pointed out by the learned counsel for the respondent, if there was any defect in the application originally submitted on 20.12.2018 by the petitioner, he should have immediately filed another application within the cut off date by cancelling the earlier application. In this case, it has not been done so. Therefore, when the last date for filing such application is over, the petitioner cannot be permitted to change the Group, as it would amount to rescheduling the tender process without issuing a notification to that effect. There could have been some more defective applications. If the petitioner is shown such indulgence to correct the application after the cut off date, same benefit should be given to all other similarly situated persons as well. If it is done so, it would only upset the whole selection process. There must be some sanctity attached to the cut off date. It cannot

be treated as directory. Therefore, I find that the respondent has rightly rejected the request of the petitioner, with which, no interference is required.

9. The learned counsel for the petitioner submitted that even the selected candidate is not having proper land and therefore, his selection cannot be sustained. It is totally a different issue, which has to be agitated in a separate proceedings. The petitioner is not entitled to raise such contention in this writ petition, more particularly, such selected person is not a party to this writ petition and the relief sought for also does not relate to his selection. If at all the petitioner is aggrieved by such selection, it is open to him to challenge the same in the manner known to law before the appropriate forum.

10. Accordingly, this Writ Petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

mk

To

The Regional Manager
Hindustan Petroleum Corporation Limited
No.9, Second Floor,
MDSR Enclave
Bharathidasan Road,
Cantonment, Trichirapalli - 620 001.

+1cc to M/s.King and Patridge, Advocate, S.R.No.18494

W.P.No.11716 of 2019

SS(CO)
Maya (29/05/2020)