

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.01.2020

CORAM:

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.34053 of 2019
and W.M.P.No. 34651 of 2019

T.Sathish Kumar ... Petitioner
Vs

- 1.The Territory Manager-LPG,
Bharat Petroleum corporation Limited,
P.O.Box No.1644, Peelamedu,
Coimbatore 641 004.
- 2.The Sales Officer (LPG),
Bharat Petroleum corporation Limited,
Salem 636 302. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned letter issued in CBE:LPG:LOI:KUMARAPALAYM (OPEN) dated 15.11.2019 on the file of the first respondent and quash the same and issue consequential direction to the respondents to issue the dealership considering the application and the representation made by the petitioner on 16.08.2019.

For Petitioner : Mr. P.Kumaresan

For Respondents : Mr. Vijayan

for M/s.Kings and Partridge.

ORDER

The writ petition has been filed in the nature of writ of certiorarified mandamus, calling for the records pertaining to the impugned letter issued in CBE:LPG:LOI:KUMARAPALAYAM (OPEN) dated 15.11.2019 on the file of the first respondent and quash the same and issue consequential direction to the respondents to issue the dealership considering the application and the representation made by the petitioner on 16.08.2019.

2. On 03.01.2020, when the present writ petition came for consideration, this Court passed the following order:

"The short controversy in the present writ petition is about the location of the show room. The controversy has arisen because the petitioner, while filing the application seeking distributorship of the respondents, has shown a particular land for putting up the show room. Unfortunately, the said land did not have approval from statutory authorities and consequently, building permission could not be obtained. Thereafter, the petitioner obtained permission to construct a show room in an alternate place. He then sent a letter to the respondents stating that he would go back to the original place to put up the show room. In view of that letter, which is not produced before this Court, the respondents had issued a further communication stating that therefore, the permission granted to put up the show room in the alternate place stood cancelled. However, the petitioner is now in a quandary. He does not have the permission to put up a show room in the original place. It is stated that in the alternate place, a show room has been constructed with all the requested features, but permission for which was been cancelled by the respondents.

2. Heard Mr. Vijayan, learned counsel appearing for the respondents.

3. It would only be in the interest of both the parties that in the land where show room is said to have been constructed by the petitioner in the alternate place, at a pre-fixed time on 20.01.2020, the respondents inspect the said place and determine the features available in the show room. A report may be given to this Court on 24.01.2020."

3. The matter is again listed today. Heard Mr. P. Kumaresan, the learned counsel for the petitioner and Mr. Vijayan, the learned counsel for M/s. Kings and Partridge on behalf of the respondents.

4. In compliance of the direction of this Court, the alternative location of the showroom offered by the petitioner was inspected by Mr. Harsh Martand, Manager Sales (LPG) Salem and Mr. Tarun Rawat, Commercial Manager (LPG) Coimbatore on 22.01.2020 and following findings are given:

"1. Alternate location for Showroom is situated at Survey No.42, Kumarapalayam Amani Village, District Namakkal, Town Survey No.35, Kumarapalayam Municipality, District Namakkal. Hence, location of showroom complies with terms and condition of advertised location.

2. Dimension of Showroom is 5.25m x 5.25 m, which is sufficient as per the terms and condition of advertised location.

3. Showroom is constructed at location as per 'Visual manifestation (VM) of Bharat Petroleum Corporation Limited. Glowsign board, mandatory board, Furniture in showroom are also as per VM of BPCL.

4. Showroom site has been taken on lease vide registered deed No3866/2017 dated 05.09.2017 for 15 years by LOI holder Mr.T.Sathishkumar.

5. Encumbrance Certificate (EC) Ref No.33150813/2020 & 33152210/2020 dated 22.01.2020 for the Showroom site was obtained, and it was found that above mentioned lease in the name of Mr.T.Sathishkumar is valid as on date. Original EC is enclosed.

View above, Showroom constructed on alternate location offered by Mr.T.Sathishkumar, complies with terms and condition of the advertisement.

5. Both sides counsel stated that since the alternate showroom complies with the terms and condition is to the satisfaction of the inspecting Authorities, the Court can pass appropriate orders.

6. In view of the inspection, the writ petition is allowed and respondents are directed to issue dealership by considering the application of the petitioner and such order of dealership may be issued on or before 29.02.2020. No costs. Connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (C.S.VIII)

/True Copy/

Sub Assistant Registrar

To

1.The Territory Manager-LPG,
Bharat Petroleum corporation Limited,
P.O.Box No.1644, Peelamedu,
Coimbatore 641 004.

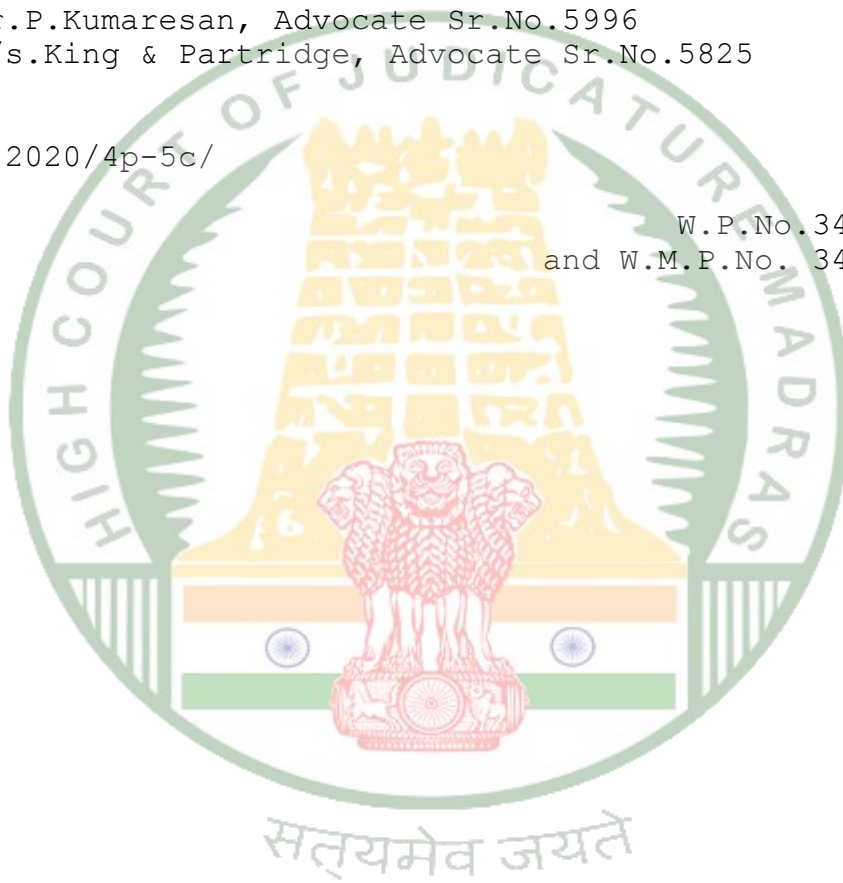
2.The Sales Officer (LPG),
Bharat Petroleum corporation Limited,
Salem 636 302.

+1cc to Mr.P.Kumaresan, Advocate Sr.No.5996

+1cc to M/s.King & Partridge, Advocate Sr.No.5825

AKM/29.01.2020/4p-5c/

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