



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.08.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No.9028 of 2020

Gunanithi

: Petitioner

Vs

- 1.The Chairman,
Indian Oil Corporation,
G-9, Indian Oil Bhavan,
Aliyavar Jung Marg,
Bandra East,
Mumbai - 400 051.
- 2.The Executive Director,
Indian Oil Corporation Ltd.,
Indian Oil Bhavan,
No.139, Nungambakkam High Road,
Chennai - 600 034.
- 3.The Divisional Engineer,
Indian Oil Corporation,
No.B-35, 3rd Floor,
Triveni, Sashtri Road,
Thillai Nagar,
Trichy - 620 018.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records relating to impugned order dated 16.03.2020 and consequential order dated 08.05.2020 under Ref:4105/DS passed by the 3rd respondent and quash the same and further directing the respondents to issue Letter of Indent to the petitioner by declaring her as selected for Retail outlet dealership at Ammankurichi location, Pudukottai District under Freedom Fighter Quota (Open CC 2).

For Petitioner : M/s.R.Maheswaran

For Respondents : Mr.Muralidharan

O R D E R

Heard the learned counsel for the Writ Petitioner and the learned counsel for the respondent Corporation.

2. The respondent issued a notification calling for applications for being allotted retail outlet under Freedom fighters category for the petition mentioned site. The petitioner was the



sole applicant. Since the petitioner was the sole applicant and the application appeared to be otherwise in order, she was issued with a communication calling upon her to remit the Security Deposit for conducting field verification. Later, it was stated that the petitioner is not eligible to come under freedom fighters quota. Therefore, the petitioner's request was negatived and the Corporation proposes to invite fresh applications for the petition mentioned site under the other/general category. The stand of the respondent was informed by the impugned order dated 08.05.2020 and the same is questioned in this Writ Petition.

3.The learned counsel for the petitioner reiterated all the contentions raised in the affidavit filed in support of the Writ Petition.

4. It is not in dispute that the petition mentioned site was notified under the freedom fighter's category. Clause IV of the brochure states that the applicant would be required to submit as when advised by the Oil Company a certificate or Tamrapatra or an attested copy of the pension order issued by the Accountant General in pursuance of the sanction letter from the Ministry of Home Affairs, GOI of their having been Freedom fighters.

5. As rightly pointed out by the learned Standing Counsel for the respondent Corporation that the applicant should himself/herself be a freedom fighter. In the Brochure issued by the Corporation, it does not contemplate that the children or grand children of the freedom fighter would also qualify to apply, under the freedom fighters quota. The petitioner was under the impression that she is eligible for being considered under the freedom fighters quota. Now, it has been clarified that the petitioner is not eligible for applying under the Freedom Fighters Quota.

6. In view of the above, the respondent shall issue a fresh revised notification and the petitioner would definitely be entitled to apply.

7. At this stage, the petitioner's counsel made a request that atleast the amount of Rs.40,000/- (Rupees Forty Thousand only) deposited by her may be ordered to be refunded.

8. The learned Standing counsel drew my attention to the relevant Clause 23 (3) in the brochure to sustain his objection that the amount cannot be refunded. If the respondents had conducted any field verification, certainly, I would not direct refund. This is because, the said amount represents the cost of field verification.

9.As rightly pointed out by the learned Standing counsel that if the selected candidate is later found to be in-eligible, the said amount will be forfeited. In this case, the impugned order at the petitioner was never selected. The reason is



quite obvious. The quota is meant for freedom fighters. The petitioner is only aged about 35 years. Even her case is not that she was a freedom fighter or was only her grandfather who was the freedom fighter. When the advertised location is only meant for Freedom Fighters and the petitioner's age itself is only 35 years, the respondent Corporation ought to have rejected the application at the very initial stage itself. In other words, the petitioner ought to have been shown door at the very threshold. Instead, the respondents sent her a communication, asking her to pay the amount of Rs.40,000/-. Thus, the respondents have un-necessarily created a hope in the petitioner's mind and that has been the reason for these two rounds of litigations.

10. Since the petitioner was never even eligible to apply the question of her being a selected candidate even at the outset does not arise. Therefore, I direct the respondents to return the amount of Rs.40,000/- (Rupees Forty Thousand only). However, the said refund will not carry any interest. Accordingly, the Writ Petition is dismissed. No costs. However, the respondents shall return the amount of Rs.40,000/- (Rupees Forty Thousand only) to the petitioner forthwith.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

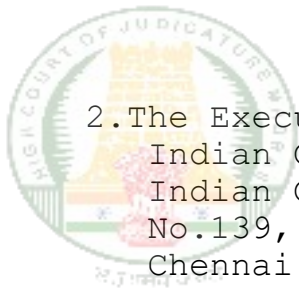
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Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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