



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.12.2020

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

W.P(MD).No.18304 of 2020
and W.M.P. (MD) No.15287 of 2020
(Through Video Conference)

P.Kanagalakshmi

.. Petitioner

Vs.

1) The Director,
Ministry of Petroleum & Natural Gas,
Shastri Bhavan,
New Delhi 110 001

2) Bharat Petroleum Corporation Ltd.,
(Head & Registered Office)
Bharat Bhavan, Currimbhoy Road,
Road No.4 & 6, Ballard Estate,
Mumbai 400 001

3) The Head of Territory Manager,
Territory Office,
Bharat Petroleum Corporation Ltd.
T.M.Retail, B.G.Good Shed Road,
Thachanallur,
Tirunelveli 627 358

.. Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the impugned order dated 03.11.2020 No. Nil issued by the 3rd respondent and quash the same as illegal and consequently direct the respondents to issue order for Retail Outlet (Petrol Pump) Dealerships to the petitioner.

For Petitioner : Mr.C.Arul Vadivel @ Sekar

For R-1 : Mr.S.Srinivasa Ragavan,
Central Govt., Standing Counsel

For RR 2 & 3 : Mr.Natesh Raja,
Standing Counsel



O R D E R

This writ petition has been filed challenging the order dated 03.11.2020 passed by the third respondent rejecting the petitioner's application for award of Retail Outlet (R.O.) Dealership at Sivagiri to Chinthamani (on NH744) location in Tirunelveli District under the open category.

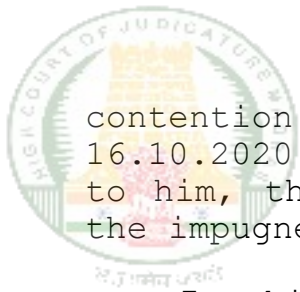
2. Mr.S.Srinivasa Ragavan, learned Central Government Standing Counsel accepts notice for the first respondent and Mr.Natesh Raja, learned standing counsel accepts notice for the respondents 2 & 3. By consent of both sides, this writ petition is taken up for final disposal at the stage of admission itself.

3. It is the case of the petitioner that she has satisfied all the requirements for the grant of R.O. Dealership of the second respondent for the Retail Outlet (R.O.) Dealership at Sivagiri to Chinthamani (on NH744) location in Tirunelveli District under the open category. It is also the case of the petitioner that she is an unemployed Engineering Post Graduate. According to her, by the impugned non-speaking order, the petitioner's candidature was rejected. According to her, principles of natural justice has been violated. In such circumstances, this writ petition has been filed.

4. Heard Mr.C.Arul Vadivel @ Sekar, learned counsel for the petitioner, Mr.S.Srinivasa Ragavan, learned Central Government Standing Counsel for the first respondent and Mr.Natesh Raja, learned standing counsel for the respondents 2 & 3.

5. The learned counsel for the petitioner drew the attention of this Court to the impugned order rejecting the petitioner's candidature for RO Dealership by the second respondent and would submit that the same is a non-speaking order since no reasons have been given for coming to the conclusion that the land provided by the petitioner is not feasible for the Distributorship. Learned counsel for the petitioner would also submit that the petitioner is an unemployed Engineering Post Graduate women and her livelihood will be affected if the Distributorship is not granted to her.

6. Mr.Natesh Raja, learned standing counsel for the respondents 2 & 3 on instructions would submit that, orally, the petitioner was informed as to why her candidature was rejected. According to him, the lands provided by the petitioner is within one kilometer radius of another petrol bunk. It is his contention that as per National Highways norms, a petrol Bunk should not be located within 1 km radius of another petrol bunk. Since the petitioner's petrol Bunk was located within the one kilometre radius of another Petrol Bunk, the third respondent has rejected the petitioner's candidature under the impugned order. Further, according to him, since there is huge well located in the petitioner's property, it is not feasible to have another petrol bunk in the said property. Further, it is his



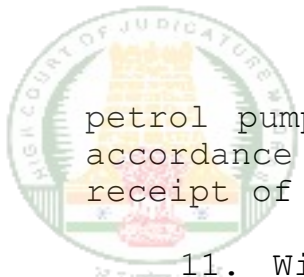
contention that the petitioner has also signed in the report dated 16.10.2020 submitted by the third respondent, Therefore, according to him, there is no violation of principles of natural justice in the impugned order.

7. This Court has considered the rival submissions and has also perused the documents filed along with this petition. As seen from the impugned order, the submissions made by the learned counsel for the respondents 2 & 3 are not reflected. Under the impugned order, the petitioner's candidature has been rejected on the ground that the Land Evaluation Committee of the first respondent visited the site offered by the petitioner on 27.06.2020 and found the same to be not meeting the required norms. However, the report of the Land Evaluation Committee of the second respondent does not seem to have been furnished to the petitioner, based on which, the third respondent has come to a conclusion that the land provided by the petitioner is not feasible for the petrol pump.

8. Before this Court, the learned standing counsel for the respondents 2 & 3 submitted that the land must not be situated within the 1 km radius from another petrol bunk. However, the same is not reflected in the impugned order. With regard to the submissions made by the learned standing counsel for the respondents 2 & 3 that a well is found in the property offered by the petitioner and therefore, the said land is not feasible, however, the same is also not reflected in the impugned order.

9. After giving due consideration for the aforementioned factors, this Court is of the considered view that the petitioner's candidature has been rejected arbitrarily and without giving any opportunity to the petitioner to clarify with regard to the land requirements of the respondents 2 & 3. None of the statements made by the learned standing counsel for the respondents 2 & 3 are reflected in the impugned order excepting for stating that the Land Evaluation Committee visited the petitioner's site on 27.01.2020 and found the same to be not feasible. No proper reasons with documentary evidence has been given for rejection of petitioner's candidature under the impugned order. When the land offered by the petitioner is found to be not feasible, the respondents 2 & 3 ought to have furnished a report submitted by the Land Evaluation Committee of the second respondent to the petitioner, which has not been done so, admittedly in the instant case.

10. For the forgoing reasons, this Court is of the considered view that the impugned order is a non-speaking order and therefore, it has to be quashed and the matter has to be remanded back to the third respondent for fresh consideration after affording fair hearing to the petitioner, including granting her the right to object the Land Evaluation Committee's report of the second respondent and then, the third respondent shall pass final orders regarding the eligibility of the petitioner for Dealership of



petrol pump of the second respondent Corporation on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

11. With these directions, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sts

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:

- 1) The Director,
Ministry of Petroleum & Natural Gas,
Shastri Bhavan, New Delhi 110 001
- 2) The Authorized Signatory,
Bharat Petroleum Corporation Ltd.,
(Head & Registered Office)
Bharat Bhavan, Currimbhoy Road,
Road No.4 & 6, Ballard Estate,
Mumbai 400 001
- 3) The Head of Territory Manager,
Territory Office, Bharat Petroleum Corporation Ltd.
T.M.Retail, B.G.Good Shed Road,
Thachanallur,
Tirunelveli 627 358.

+1cc to Mr.C.Arul Vadivel @ Sekar, Advocate, SR.No.25174.

W.P(MD) .No.18304 of 2020

11.12.2020

SSS(CO)

CS(08.01.2021) 4P 5C