



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.02.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

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W.P.(MD).No.20059 of 2017
and W.M.P.(MD).No.16318 of 2017

S.Neelakandan

.. Petitioner

Vs.

The Divisional Manager (Marketing Division),
Indian Oil Corporation,
Trichy Divisional Office,
"Triveni" 3rd Floor,
B-35, Shastri Road,
Thillai Nagar,
Trichy - 620 018.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, to direct the respondent to issue the Letter of Intent (LOI) for the RO Dealership in respect of Serial No.552 at Pookollai, Peravurani Taluk in Thanjavur District.

For Petitioner : Mr.K.Mahendran

For Respondent : Mr.K.Muraleedharan

ORDER

This writ petition is filed for issuance of Writ of Mandamus, to direct the respondent to issue the Letter of Intent (LOI) for the RO Dealership in respect of Serial No.552 at Pookollai, Peravurani Taluk in Thanjavur District.

2.The respondent issued a notification in October 2014 calling for applications from suitable persons to grant Retail Outlet Dealership. In the said notification the respondent identified around 600 places to grant Retail Outlet Dealership. Some of the Retail Outlet dealership have been reserved for scheduled castes and scheduled tribes. Serial Number 552 was earmarked for SC category.

3.The petitioner applied for the dealership to run the Retail Outlet in the place which is shown as Sl.No.522 at Pookollai, Peravurani Taluk, Thanjavur District. It is not in dispute that the petitioner submitted his application and that it was acknowledged. It is the case of petitioner that he satisfied all the eligible criteria by producing sufficient documents. Since the respondent has not appointed the petitioner as a dealer and issued Letter of



Intent after following a fair procedure, the petitioner has come forward with the present writ petition.

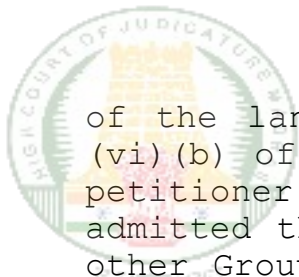
4.It is the specific case of the petitioner that his application is pending from 2014 and that the respondent did not issue a Letter of Intent to the petitioner even though the respondent have conducted full verification as early as on 26.05.2017 and found no irregularity in the application and the particulars given by the petitioner for the allotment of dealership.

5.The respondent filed a counter affidavit signed on 11.12.2017. In the counter affidavit, the facts narrated by the petitioner in the affidavit filed in support of the writ petition are not seriously disputed. However, as per the Brochure of Selection of Dealership, it is stated that in respect of the reserved categories where the Retail Outlet is to be developed by the Corporation, the lease deed should specifically have a provision for sub-lease of the land to Indian Oil Corporation. Therefore, it was submitted that the candidates who offer land which are under agreement of lease will be considered only under Group - II. It is the case of respondent that as per the Selection process, the candidates under Group - I will be taken up first and in case no one is eligible, the candidates under Group - II will be considered. Since there is a candidate under Group - II, it is stated by the respondent that the application of the petitioner is kept on hold.

6.In para 11 of the counter affidavit the respondent has stated as follows:

"11.It is submitted that, petitioner Mr.Neelakandan offered the land under lease to him for 21 years and also filled in details under Group I and Group II under land in his application. Also, the letter dt.19.11.2014 submitted by him from Shri T.K.Govindarajau, B.Sc., B.L., Advocate & Notary Public, Pattukottai, stated that he belonged to Group I. Hence, Mr.Neelakandan was treated as candidate under Group I and being the only one candidate in Group I, was declared selected on 13.05.2017. After requisite internal approvals, Committee of Officers comprising Mr.Naveen Joshua and Mr.V.R.Jayakrishnan, visited the candidate for Field Verification of Credentials on 26.02.2017 to verify with original documents submitted along with the application including land documents."

7.Since the petitioner was the only candidate applied under Group - I, the respondent has stated that the petitioner was declared as Selected on 13.05.2017. A field inspection was also completed after verification of credentials on 26.05.2017. It is further stated in the counter affidavit that the lease deed submitted by the petitioner did not have a provision for sub-lease

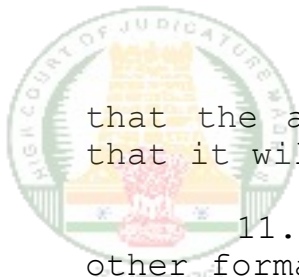


of the land to Indian Oil Corporation as required under Class IV (vi) (b) of the Brochure for Dealer Selection and that therefore the petitioner cannot be considered under Group - I. Though it is admitted that a person who applied under Group - I can also opt to other Group, the respondent stated that there was another candidate who had applied in Group - II. In response to the counter affidavit, the petitioner has produced before this Court, the lease agreement, dated 06.11.2019 indicating that the petitioner has right to sub-lease the premises in favour of Indian Oil Corporation.

8.The learned counsel appearing for the petitioner further pointed out that the original lease deed was produced before the respondent along with the application and that there was no whisper about any irregularity in the document of lease when they wanted the petitioner to produce the notarised affidavit in the prescribed format and the signature of the petitioner in all the pages of the application. The scrutiny of the application appears to be prior to the said communication, dated 10.09.2016. Therefore, the petitioner was not informed about the requirement of authorisation to sub-lease.

9.In other words the respondent did not mention that the lease deed should have a condition authorising the petitioner to sub let the property in favour of Indian Oil Corporation, in case of long term lease. The learned counsel appearing for the petitioner then submitted that such condition of having a specific clause to sub-lease the land to Indian Oil Corporation is applicable only when the locations are advertised under Corpus Fund Scheme (CFS), Other Corporation Owned Sites ("A"/"CC" sites) and Company Leased sites. The learned counsel for the respondent however, submitted that the original terms and conditions of allotment as per the advertisement made in 2014 contained such condition. This Court is unable to see any such condition requiring the petitioner to have a lease deed with a specific condition authorising the petitioner to sub-lease the property in favour of Oil Company. Therefore, the prime reason stated by the respondent for not considering the application of petitioner cannot be accepted.

10.The learned counsel appearing for the respondent then submitted that it is not possible for the petitioner's candidature being considered under Group - I. It is also made clear by counsel appearing for the respondent that the petitioner is the only candidate who is appearing under Group - I. Similarly, the learned counsel appearing for the respondent admits that the petitioner is eligible to consider under Group - II, in case he does not satisfied the eligible criteria for Group - I. Except stating that there may be other candidates who have applied for Group - II, no record is produced to show before this Court that any other dealer had been kept under wait either under Group - I or Group - II. As stated



that the application of the petitioner is still under process and that it will be considered.

11.The advertisement was issued in this case in 2014 and all other formalities were over even in the year 2016. The petitioner's eligibility in terms of the advertisement issued by the respondent is not disputed. The only condition that the petitioner should be authorised to sub-lease the property to the Oil Corporation can not be invoked in this case against the petitioner. The petitioner has also obtained a fresh lease authorising the petitioner to sub-lease the property in favour of the Oil Corporation. Since the petitioner is required to produce the lease deed duly executed only upon allotment of Retail Outlet, it is represented by the counsel for the petitioner that the petitioner submitted all other formalities in terms of conditions specified in the advertisement. He further undertook to get the lease deed registered before issuing the Letter of Intent.

12.For all the reasons discussed above, this Court is unable to sustain the stand of respondent. The petitioner has been invited and asked to submit all the formalities to get a Retail Outlets in his name for selling petroleum products. In the process he has invested substantial amount, apart from spending his valuable time in pursuing his application. It is settled that the respondent even while exercising his power while passing Executive or Administrative Order cannot be unreasonable. In the entire counter affidavit filed by the respondent, the respondent has not whispered a word about how the delay in processing the application had occurred.

13.In such circumstances, this Court is of the view that the writ petitioner is entitled to get the Letter of Intent as no other dis-qualification or ineligibility is pointed out by the respondent and the petitioner has also undertaken to produce a fresh lease deed with a specific clause authorizing the petitioner to sublet the premises to M/s.Indian Oil Corporation.

14.Hence, this writ petition is allowed and the respondent is directed to appoint the petitioner as dealer of Retail Outlet in respect of Serial No.552 at Pookollai, Peravurani Taluk, Thanjavur District and to issue the Letter of Intent within a period of eight weeks from the date of receipt of a copy of this order after following the usual procedure which is required. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (records)

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/ /2020

Sub Assistant Registrar(CS)



TM

+1 CC to Mr.K.MURALEETHARAN, Advocate (SR-8543[F] dated 26/02/2020)

+1 CC to Mr.K.MAHENDRAN, Advocate (SR-8206[F] dated 25/02/2020)

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