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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2021

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA  
AND  
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.A.No.493 of 2013

Dr.K.Arul Prakash

.. Appellant/Petitioner

Versus

1. The Indian Oil Corporation Ltd.,  
Having its registered Office at G-9,  
Ali Yavar Jung Marg Bandra,  
East Mumbai 400 051.  
Rep. By its Managing Director.
2. The General Manager,  
Indian Oil Corporation Ltd.,  
Tamil Nadu State Office,  
No.139, Mahatma Gandhi Road,  
Indian Oil Bhavan, Nungambakkam,  
Chennai - 600 034.
3. The Senior Divisional Retail Sales Manager,  
Indian Oil Corporation Ltd., (Marketing Division),  
Salem Divisional Office, No.234, I Floor,  
NH-7, Salem-Bangalore Bye-Pass Road,  
Kondalampatti, Salem - 636 010.
- 4.R.Bhuvaneswari
- 5.S.Subathra

.. Respondents/Respondents

Prayer: Writ Appeal has been filed under Section 15 of Letter & Patent against the order dated 01.11.2012 passed in W.P.No.4189 of 2012.

Prayer in W.P.No.4189 of 2012: Calling for the records of the 3<sup>rd</sup> Respondent hearin relating to selection results dated 22/09/2011 and proceedings of the 3<sup>rd</sup> Respondent herein SLMDO:R dated 14/02/2012 and quash the same insofar as it relating to its selection of respondents 4 and 5 here in as rank no 1 or the location katchupalli to Kondalampatty (on SH 86) Salam District and direct the respondents 1 to 3 herein to allot the said retail outlet Dealership to the petitioners herein.



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For Appellant : Mr.R.Marudhachalamurthy

For R1 to R3 : Mr.Abdul Saleem

For R4 & R5 : Mr.U.Karunakaran

#### JUDGMENT

(Judgment of the Court was delivered by T.RAJA, J.)

The present appeal is directed against the impugned order passed by the learned Single Judge in W.P.No.4189 of 2012, dated 01.11.2012, in and by which, learned Single Judge refused to entertain the writ petition praying to reject the applications submitted by the respondents 4 and 5 for Petroleum Retail Outlet Dealership.

2. Learned counsel for the appellant pleaded that when Indian Oil Corporation Limited (in short "IOCL") issued an advertisement in "The Hindu", an English daily and "Dinakaran", a Tamil daily, on 23.10.2010, inviting applications for grant of Petroleum Retail Outlet Dealership to various places, including the place at Katchupalli-Kornampatti on State Highway 86, Salem District, the appellant and the respondents 4 and 5 constituting a partnership firm by name "Sri Vallabha Ganapathy Agency" applied for the dealership and finally, the respondents 4 and 5 were selected, as they were ranked at No.1, whereas the appellant was ranked at No.2. Therefore, the appellant gave a representation dated 17.10.2011 to the third respondent raising three objections and they are extracted below as stated in the proceedings dated 14.02.2012 of the third respondent:-

--> The land offered by you was a better land than the land offered by the selected candidate;

--> HT lines were passing through the site offered by the selected candidates with a Tree in front of the site;

--> Less mark given for your educational qualification, capability to provide finance.

Subsequently, the third respondent, vide proceedings dated 14.02.2012, rejecting all the objections raised by the appellant, stated that the allegation on award of less mark to the appellant's land is incorrect and on scrutiny of the documents and investigation done, it is revealed that the marks awarded to the appellant by the Committee was as per the prevailing guidelines on land evaluation. Coming to the second objection of the appellant regarding HT lines passing through the site belonging to the respondents 4 and 5 with a tree in front of the site, the Selection Committee gave a reply stating that the lines passing through the corner of the site is not a



safety hazard, and as such, considered the fact that the land offered by the respondents 4 and 5 has more than adequate depth to take care of required dimension of 35m x 35m, inasmuch as the respondents 4 and 5 are in possession of a land measuring 35m x 60m, hence, even if the area covered by the high tension lines is omitted, the land offered by the respondents 4 and 5 was sufficient enough for the purpose of Retail Outlet. Coming to the marks awarded for the Educational Qualification acquired by the respondents 4 and 5, the Selection Committee came to the conclusion that since the fourth respondent has passed B.Lit., the applicable mark of 12 has been correctly awarded by the Committee.

3. By submitting so the reasonings given by the third respondent, learned counsel for the appellant would further argue that the application issued by the IOCL clearly says that the land is required for Petroleum Retail Outlet, however, the land offered by the respondents 4 and 5 has high tension overhead lines passing through the plot offered by them, hence, such land offered by the respondents 4 and 5 ought not to have been considered by the authorities as it is not a fit land for granting petroleum retail outlet. Therefore, in the present case, the land offered by the respondents 4 and 5 has to be disqualified on the ground that high tension line passing through the land offered by them is not a safe place for running Petroleum Outlet. However, this has been wrongly overlooked by the Selection Committee. When the same was brought to the notice of this Court in the present writ petition, it was pleaded, learned Single Judge also has brushed aside the said contention. Now, the land offered by the respondents 4 and 5 granting petroleum dealership is exposed to risk and inviting danger to the public who are going to procure the petrol from the said outlet given to the respondents 4 and 5, he contended.

4. Opposing the above prayer, learned counsel for the respondents 4 and 5, drawing our attention to the reasonings given by the learned Single Judge, submitted that when the respondents 4 and 5 are in possession of the land measuring 40m x 61m on State highway 86, they have offered the land measuring 35m x 60m for the purpose of Petroleum Retail Outlet, because, the required land as per the advertisement for Retail Outlet is 35m x 35m. Therefore, if 35m x 35m is taken into consideration, there are no high tension lines passing through the land in question. Thus, learned Single Judge has rightly dismissed the writ petition by confirming the selection of respondents 4 and 5 for Petroleum Retail Outlet, hence, the impugned order does not call for interference, he pleaded.

5. We agree with the above said submissions of the learned counsel for the respondents 4 and 5, for the reason that as per



the advertisement for retail outlet, the required land is 35m x 35m. As per Notes appended to Clause 15 of the Brochure, if high tension overhead lines pass over the plot offered, the same will be disqualified. In the present case, no doubt it is true that the respondents 4 and 5 are in possession of land measuring 40m x 61m on State Highway 86. However, the sketch and the photographs filed in the typed set of papers depict that three high tension lines are passing in the south-west corner of the land and those three lines are crossing upto a length of 2.8m out of 60m length of the plot. Therefore, since they are passing only upto 2.8m out of 60m of the plot, as rightly decided by the learned Single Judge, the land offered by the respondents 4 and 5 is much more than the required land i.e. if 2.8m is deducted from 60m, there are no high tension overhead lines over the land measuring 57.2m x 35m, especially when the land is required only 35m x 35m as per the advertisement. Hence, as the land offered by the respondents 4 and 5 has been found suitable by the Selection Committee and that educational qualification possessed by them are also found to be correct, we are unable to find any reason to interfere with the well-reasoned order passed by the learned Single Judge warranting interference.

6. It is also to be noted that after the dismissal of the writ petition on 01.11.2012, no interim stay was granted by this Court while entertaining the writ appeal in the year 2013 and therefore, IOCL has obtained No Objection Certificate from the District Collector, Salem, on 18.02.2013, but, with following conditions:-

"1. In the proposed site, a tower line has been proposed to erect. Hence, under ground tank should be installed in such a way of 12 feet apart from the above E.B. Line on both left and right side.

2. The building should be erected in such a way of 12 feet distance from its highest part to the above E.B. Line.

3. The petrol storage bunk should be installed strictly with the rules of E.B. Power Grid Corporation."

On complying with the above said conditions, the Electricity Department has also issued electricity service connection on 26.11.2013, followed by explosive license dated 28.11.2013 issued by the Petroleum and Explosives Safety Organization to the respondents 4 and 5. Since then, they are running the Petroleum Retail Outlet. Thus, the appellant having failed to substantiate his competency and qualification to get selected in the selection held by the respondents 1 to 3 for Petroleum Retail Outlet Dealership on 14.02.2012 cannot come to the Court



assailing the well-reasoned order passed by the learned Single Judge. Therefore, for the reasons stated above, the writ appeal stands dismissed. No Costs.

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Sd/-  
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Managing Director,  
The Indian Oil Corporation Ltd.,  
Ali Yavar Jung Marg Bandra,  
East Mumbai 400 051.
2. The General Manager,  
Indian Oil Corporation Ltd.,  
Tamil Nadu State Office,  
No.139, Mahatma Gandhi Road,  
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Indian Oil Corporation Ltd., (Marketing Division),  
Salem Divisional Office, No.234, I Floor,  
NH-7, Salem-Bangalore Bye-Pass Road,  
Kondalampatti, Salem - 636 010.

+1cc to Mr.R.Marudhachalamurthy, Advocate, S.R.No.34378  
+1cc to Mr.U.Karunakaran, Advocate, S.R.No.34486  
+1cc to Mr.Abdul Saleem, Advocate, S.R.No.34482

W.A.No.493 of 2013

SJ (CO)  
CT (26/08/2021)