

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2021

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.28931 of 2012

and

M.P.No.1 of 2012

T.Aarthy

... Petitioner

Vs

1. Executive Director (TNSO)
Indian Oil Corporation Limited
"Indian Oil Bhawan",
139, Mahatma Gandhi Road,
Nungambakkam High Road,
Chennai - 600 034.

2. Indian Oil Corporation Limited,
Indane Area Office,
B-35, II Floor, Sastry road,
Thillai Nagar,
Trichy - 620 018.

3. District Collector,
Perambalur District,
Perambalur.

4. Tahsildar,
Perambalur,
Perambalur District.

5. Ms. J.Satya

(R5-Impleaded as per order dated 19.2.2015

by TSSJ in M.P.1/2013 in W.P.25931/2012

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the 1st respondent in his Proceedings TNL/S/221/Veppanthattai dated 09.10.2012 and quash the same and direct the respondents to issue licence to the petitioner for LPG Distributorship at Veepanthattai.

For petitioner ... Mr.M.K.Kabir,
Senior counsel for
M/s.C.S.Associates

For Respondents ... Mr.Abdul Saleem
for M/s. Anand, Abdul
& Vinodh Associates for R1 & R2

Mr.V.Shanmugasundaram,
Special Government Pleader
for R3 & R4
R5- No appearance.

ORDER

This Writ Petition has been filed challenging the impugned order dated 09.10.2012 passed by the 1st respondent rejecting the petitioner's candidature on the ground that she is ineligible, since she is not a resident of advertised location for the appointment of LPG distributorship.

2. The petitioner has challenged the impugned order primarily on the ground that principles of natural justice has been violated by the respondent Corporation and they have not adhered to the directions given by this Court on 01.02.2012 in W.P.No.17902/2011. As seen from the impugned order, the respondent Oil Corporation claims that the petitioner is not the resident of Veepanthattai Village, which is the advertised location for LPG Distributorship. However, it is the case of the petitioner that she belongs to the same village. She has filed the following documents to substantiate her case that she belongs to Veepanthattai Village.

- (i) Registration of I Grade Contractor-Proceedings of Superintending Engineer, Village Roads Division, Salem.
- (ii) Revocation order issued by Superintending Engineer, Tamil Nadu Water Supply and Drainage Board, dated 22.05.2001.
- (iii) Income Tax Return Verification Form - Assessment year 2008-09 dated 30.09.2008.
- (iv) Form of Certificate of Sales Tax Clearance Certificate dated 26.10.2009.
- (v) House Tax Receipts dated 04.03.2010
- (vi) Certificate issued by Indian Overseas Bank, Veepanthattai dated 17.04.2010.
- (vi) Residence Certificate dated 27.04.2010.
- (vii) Bank Balance Certificate issued by Indian Bank.
- (viii) Solvency Certificate in favouring of

petitioner's father dated 25.05.2010.

(ix) Receipt issued by Indian Oil Corporation, Trichy to the petitioner's brother T.Karthik Kumar.

(x) Cash Receipt issued by Indian Oil Corporation.

(xi) Statement of Accounts issued by State Bank of India, Perambalur to the petitioner's father dated 01.11.2010.

(xii) Letter from Veppanthattai Panchayat Board to Manager, Indian Oil Corporation, Trichy, dated 16.11.2010.

(xiii) Letter from Veppanthattai Panchayat Board to Manager, Indian Oil Corporation, Trichy dated 16.11.2020.

(xiv) Registered Sale Deed in favour of petitioner's father Thangarasu dated 11.01.2011.

(xv) Nativity Certificate dated 23.05.2011.

(xvi) Passport standing in the name of the petitioner dated 30.12.2011.

3. All the aforementioned documents, disclose that the petitioner is a resident of Veppanthattai Village.

4. By order dated 01.02.2012 in W.P.No.17902 of 2011, in the earlier round of litigation, this Court had passed the following order:

6. On consideration, I find that the impugned order cannot be sustained. The right of the petitioner, after allotment of LPG distributorship, has been cancelled at her back, without giving her opportunity to defend. The respondents were under legal obligation to put the collected materials to the petitioner to rebut it, by leading evidence to prove that she was resident of Veppanthattai village. The Statutory Authorities of the Government of India, cannot arbitrarily take a decision at the back of the person, affecting civil right of the applicant.

7. For the reasons stated hereinabove, the Writ Petition is allowed and the impugned order is set aside, with liberty to the respondents to take a decision afresh after giving an opportunity of hearing to the petitioner. It is made clear that the petitioner shall be permitted to lead documentary and oral evidence in support of her stand, that she is the resident of the Veppanthattai village, therefore, fully eligible allotment of LPG distributorship.

8. It will thereafter be open to the respondents to take a decision by considering the evidences so led, and pass a speaking order.

5. As seen from the above order, it was made clear that the petitioner shall be permitted to lead oral and documentary evidence in support of her stand that she is a resident of Veppanthattai Village and eligible for LPG Distributorship from the respondent Oil Corporation.

6. However, as seen from the impugned order, though the 2nd respondent Oil Corporation has observed that he has gone through all the various documents submitted by the petitioner, no reasons have been given whatsoever for rejecting the said documents produced by the petitioner. There is also no reference in the impugned order as to the details of the documents scrutinised by the respondent. It is also not disclosed in the impugned order as to whether the petitioner was permitted to adduce oral evidence as directed by this Court in its order dated 01.02.2012 in W.P.No.17902 of 2011. It is also contended by Mr.M.K.Kabir, learned Senior Counsel for the petitioner that all the documents that have been placed before this Court and filed in the typed set of papers were also produced before the 2nd respondent Oil Corporation, but however, according to him, the same was not considered. Instead of considering the documents produced by the petitioner, the 2nd respondent Oil Corporation, in the impugned order, has referred to a complaint received by them from Ms.J.Sathya enclosing the document indicating that the petitioner is the resident of Perambalur Town and not the resident of Veppanthattai Village. The 2nd respondent has also observed that two different Revenue Authorities had given contradictory certificates regarding the residential status of the petitioner.

7. According to the 2nd respondent Oil Corporation, they have received a letter from the District Collector, Perambalur, vide letter dated 25.09.2012 confirming that the petitioner as well as her brother Karthik Kumar were resident of Perambalur as on 30.04.2010 when the petitioner submitted the application with the Oil Corporation for LPG distributorship.

8. Mr.M.K.Kabir, learned Senior Counsel for the petitioner would submit on instructions that none of the documents referred to in the impugned order were furnished to the petitioner in the enquiry proceedings. According to him, the order dated 01.02.2012 passed in W.P.No.17902 of 2011 has not been adhered to by the 2nd respondent Oil Corporation.

9. Mr. Abdul Saleem, learned Standing Counsel for the 1st and 2nd respondents has drawn the attention of this Court to the counter affidavit filed by the 2nd respondent before this Court and would submit that the respondent is bound by the revenue records which clearly indicate that the petitioner is not a resident of Veppanthattai village but her residence is at Perambalur Town. He also drew the attention of this Court to the reasons given in the counter affidavit for rejecting the documents produced by the petitioner before the 2nd respondent Oil Corporation during the enquiry proceedings.

10. Even though reasons have been given in the counter affidavit for rejecting the petitioner's documents, no reasons have been given in the impugned order. Except stating that the documents produced by the petitioner has been considered, no reasons whatsoever has been given by the 2nd respondent for rejecting the petitioner's documents placed before the 2nd respondent to substantiate her case that she belongs to Veppanthattai Village. There is no reference to any discussion with regard to the oral evidence that was permitted to be adduced by the petitioner by this Court in the order dated 01.02.2012 in W.P.No.17902 of 2011.

11. For the foregoing reasons, this Court is of the considered view that the 2nd respondent, before passing the impugned order has not complied with the directions given by this Court on 01.02.2012 in W.P.No.17902/2011 in its letter and spirit. The petitioner has admittedly placed documents to substantiate her case that she belongs to Veppanthattai village.

12. As seen from the impugned order, the petitioner has also not been granted permission to adduce oral evidence. Therefore, this Court is of the considered view that principles of natural justice has been violated by the 2nd respondent before passing the impugned order and the 2nd respondent has also not complied with the directions given by this Court on 01.02.2012 in W.P.No.17902/2011 in its letter and spirit.

13. For the foregoing reasons, the impugned order in Proceedings TNL/S/221/Veppanthattai dated 09.10.2012 passed by the 1st respondent is hereby quashed and the matter is remitted back to the 2nd respondent for fresh consideration and the 2nd respondent shall pass final orders on merits and in accordance with law, after giving due consideration to the documents filed before this Court in this Writ Petition and also by affording permission to the petitioner to adduce oral evidence in compliance with the earlier directions given by this Court on 01.02.2012 in W.P.No.17902/2011, within a period of eight weeks from the date of receipt of a copy of this order.

14. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

vsi

To

1. Executive Director (TNSO)
Indian Oil Corporation Limited
"Indian Oil Bhawan",
139, Mahatma Gandhi Road,
Nungambakkam High Road,
Chennai - 600 034.
2. Indian Oil Corporation Limited,
Indane Area Office,
B-35, II Floor, Sastry road,
Thillai Nagar,
Trichy - 620 018.
3. District Collector,
Perambalur District, Perambalur.
4. Tahsildar,
Perambalur,
Perambalur District.

+1cc to M/s.C.S.Associates, SR.13912

W.P.No.28931 of 2012

RR(CO)
CB(23/03/2021)

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