



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.10.2021

Coram

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P.No.13357 of 2021
and
W.M.P.No.14189 of 2021

Mrs. Jeesh V.P

.. Petitioner

Versus

- 1.The Territory Manager (Retail)
Bharat Petroleum Corporation Limited
No.35, Vaidyanatha Mudali Street
Tondiarpet, Chennai - 600 081
- 2.State Head (Retail), Tamilnadu & Pondicherry
BPCL Southern Regional Office
1, Ranganathan Garden, Off: 11th Main Road
Anna Nagar, Chennai - 600 040.
- 3.The Director,
National Commission For Scheduled Castes
5th Floor, Lok Nayak Bhawan
Khan Market, New Delhi - 110 003.
- 4.The Director
National Commission For Scheduled Castes
No.26, II nd Floor, Haddows Road,
Shastri Bhavan, Chennai - 600 006.
- 5.Mr.G.Sashi Kumar
- 6.K.Saravanan

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records on the file of the second respondent vide his proceedings TN.SRMP.2018 dated 01.06.2021 and quash the same and consequently, directing the 2nd respondent to issue fresh advertisement for appointment of retail dealership for the location Tadalam Junction to Vaiyavoor Village, Kancheepuram District (Chennai Territory).



For Petitioner : Mr.P.Selvan Amunas
For Respondents - 1 & 2 : Mr. Vijayan
for M/s.King & Partridge
Respondents - 3 & 4 : Mr. Rabu Manohar,
Senior Central Govt. Panel Counsel
Respondents - 5 & 6 : Mr. T.V.G. Kartheeban

O R D E R

The relief sought in this writ petition is to call for the records relating to the proceedings of the second respondent bearing No.TN.SRMP.2018 dated 01.06.2021, quash the same and consequently, direct the second respondent to issue fresh advertisement for appointment of retail dealership for the location Padalam Junction to Vaiyavoor Village, Kancheepuram District (Chennai Territory).

2.1 In the affidavit filed in support of the writ petition, it is stated by the petitioner that the first respondent vide newspaper advertisement dated 26.11.2018, invited applications for appointment of regular/rural retail outlet dealerships in the State of Tamil Nadu & Pondicherry. The advertisement includes dealership at Padalam Junction to Vaiyavoor Village, Kancheepuram District in Chennai Territory under SC category. The said location is specifically advertised under the Corpus Fund Scheme and earmarked only to the candidates, who belong to SC Community.

2.2 Pursuant to the same, the petitioner applied for the allotment of dealership for the said location vide Application No.15434184700678 dated 28.11.2018. Similarly, the fifth respondent, who belongs to Chettiar community, also applied for the allotment of dealership in respect of the very same location through his driver/sixth respondent.

2.3 According to the petitioner, the sixth respondent, though belongs to SC community, does not have any lands or financial credentials to run a retail outlet and the fifth respondent, with a malafide intention to utilize the opportunity provided for SC candidates and to grab the funds allotted by the Government under the Corpus Fund Scheme, applied for the aforesaid allotment of dealership through him. Hence, she gave a complaint dated 07.11.2019 to the respondents 1 & 2 under Clause 18 of the Grievance Redressal System, requesting to reject the application of the sixth respondent. Finding no response on the said representation, she gave a representation to the respondents 3 & 4 requesting to intervene in this matter.

2.4 Pursuant to the same, on 24.02.2020, the fourth respondent issued summons to the respondents 1 & 2, to which the



first respondent sent a reply on 11.03.2020, informing that as per Dealer Selection Guidelines Complaint Redressal, a committee has been appointed to investigate the petitioner's complaint and a report would be submitted by the second respondent. The said reply was duly communicated by the fourth respondent to the petitioner on 20.03.2020.

2.5 In the mean while, the first respondent Petroleum Corporation selected the sixth respondent and proceeded to allot the dealership for the aforesaid location to him.

2.6 Aggrieved over the same, the petitioner filed W.P. No. 3341 of 2021, which vide order dated 03.03.2021, was disposed of, in the following terms:

"6. After recording the submissions made by the respective learned counsels, this Court directs the first respondent to consider the petitioner's representation dated 07.11.2019, requesting the first respondent not to grant dealership to the 6th respondent under the Corpus Fund Scheme of the respondent-Oil Corporation and pass final orders on merits and in accordance with law, after affording a fair hearing to the petitioner including granting her the right of personal hearing and also permitting her to produce the documents, within a period of 3 months from the date of receipt of a copy of this order. Till final orders are passed by the first respondent, status-quo shall be maintained and dealership cannot be granted to the 6th respondent by the 1st respondent-Oil Corporation."

2.7 As per the aforesaid order, the first respondent conducted enquiry, during which the second respondent informed that the application of the sixth respondent cannot be rejected based on the allegations raised by the petitioner, since the guidelines do not bar the candidates to take help in making application/making payment. Therefore, left with no other alternative, the petitioner has come up before this Court with the present writ petition.

3. Upon notice, the respondents 1 and 2 filed a detailed counter affidavit, wherein, it is inter alia stated that for the location Padalam to Vaiyavoor, three applicants were qualified in Group I category and therefore, draw of lots was conducted on 04.11.2018, in which, the sixth respondent was selected as the successful candidate. It is further stated therein that as per the Dealership Selection Guidelines, the petitioner lodged a complaint dated 07.11.2019, besides making a complaint before the National Commission for Scheduled Castes and filing a writ petition in WP.No.3341 of 2021 before this court; pursuant to the order of this court dated 03.03.2021 passed in the said writ petition, personal opportunity of hearing was provided to the petitioner to substantiate her allegations levelled against the



respondents 5 and 6, however, she was not able to produce any concrete evidence to that effect. The counter affidavit further proceeds to state that under the selection guidelines, it is not mandatory that the e-mail communication should emanate from an e-mail ID in the name of the candidate applying; even assuming that the lease deed between respondents 5 and 6 provides lesser rental of Rs.2,000/-, it will not lead to the conclusion that the 6th respondent is the benami of the 5th respondent; once dealership has been established, an e-mail ID will be provided by BPCL to the dealer and all correspondence and financial dealings will be done with the selected dealer alone; no dealer can act as a benami and if the selected dealer acts as a benami, strict action will be taken. Stating so, these respondents prayed for dismissal of this writ petition.

4. Heard both sides. From the perusal of the materials available on record, it is seen that before the respondent authorities, the petitioner filed complaint / representation raising certain allegations against the respondents 5 and 6, for allotment of retail dealership for the location Padalam Junction to Vaiyavoor Village, Kancheepuram District (Chennai Territory). However, she failed to produce any concrete material to substantiate the said allegations and therefore, the sixth respondent was selected as successful candidate for the dealership, according to the respondents 1 and 2.

5. In the given factual background, as agreed by the learned counsel appearing for both sides, this court, without examining the correctness of the proceedings impugned herein, is inclined to grant liberty to the petitioner to approach the respondents 1 and 2 and place all the relevant documentary evidence to substantiate the allegations raised against the respondents 5 and 6. On filing of such documentary evidence by the petitioner, the respondents 1 & 2 shall consider the same and pass appropriate orders, on merits and in accordance with law, as expeditiously as possible. Accordingly, this writ petition stands disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

mrr/rsh



To

1.The Territory Manager (Retail),
Bharat Petroleum Corporation Limited,
No.35, Vaidyanatha Mudali Street,
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+1cc to Mr.T.V.G.Kartheeban, Advocate, S.R.No.52212
+1cc to Mr.P.Selvan Amunas, Advocate, S.R.No.52204
+1cc to M/s.King & Partridge, Advocate, S.R.No.51659
+1cc to M/s.B.Rabu Manohar, Advocate, S.R.No.51429

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RGN(CO)
CB(01/11/2021)