



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2021

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

W.A.No.203/2017

RK.Pradeep Raj

...Appellant/Petitioner

-vs-

The Territory Manager-LPG,
Chennai LPG Territory,
Bharat Petroleum Corporation Limited,
Chennai LPG Botting Plant,
J1-16, SIPCOT Industrial Complex,
New Gummidipoondi,
Tiruvallur District.

...Respondent/Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 09.06.2016 made in W.P.No.19269/2016 by a learned Single Judge of this Court.

Prayer in W.P.No.19269/2016:

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, forbearing the respondent from conducting lucky draw to be held on 11.06.2016 for the location of Puzhal/ Kallikuppam as per order passed by this Honourable Court in W.A. No. 683 of 2015 dated 02.09.2015.

For Appellant : Mr.R.Thirumoorthy

For Respondent: Mr.M.Vijayan

for M/s.King and Patridge

JUDGMENT

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

This Writ Appeal has been directed against the order dated 09.06.2016 made in W.P.No.19269/2016 by a learned Single Judge of this Court in and by which the application filed by the appellant for LPG Distributionship was rejected.

2. Heard the learned Counsel on either side.



3. At the outset, we may mention herein that in the first round of litigation in W.A.No.683/2015 dated 02.09.2015, when a Division Bench of this Court has given a lucid interpretation for the 'word' locality as a 'neighbourhood' or 'area' or 'location' and the word 'location' is defined as a 'site' or 'position' and both the words can be used interchangeably and have to be understood in the context wherein they are employed, it has been made clear that 'location/locality' means the area specified in the Notification. Finally, taking into account the case of the appellant came to the conclusion that the appellant by specifying the location as 'Puzhal/(to) Kallikuppam' had mis-represented the location of the showrooms. Therefore, taking note of the mis-representation made by the appellant, rightly came to the conclusion that the authorities have taken a legal and correct decision by declaring the appellant as not eligible and ordered to issue a re-notification affording an opportunity to all the persons who have required capacity and intention for the same and who fulfill the requirement to participate in the process so that the LPG Distributionship can be allotted to the most eligible person.

4. Mr.M.Vijayan, learned Counsel for M/s.King and Patridge, learned Counsel for the respondent submitted that pursuant to the direction given by the Division Bench of this Court in W.A.No.683/2015 dated 02.09.2015, an advertisement was issued in the Newspaper informing that the draw will be conducted on 11.06.2016 at 3.00 p.m. and individual letters were sent to the remaining eligible candidates. At this stage, the appellant filed W.P.No.19269/2016, seeking for issuance of a Writ of Mandamus, forbearing the respondent from conducting lucky draw to be held on 11.06.2016 for the location of puzhal/Kallikuppam as per the order passed by this Court in W.A.No.683/2015 dated 02.09.2015 and the same was taken up for hearing and finally, on 09.06.2016 in the impugned order, the learned Single Judge has dismissed the said Writ Petition holding clearly that the application submitted by the appellant for LPG Distributionship came to be rejected and though the same was challenged successfully, on appeal, it was set aside by this Court, granting liberty to the respondent to proceed with the process in accordance with the requirement. In that order, it was further held that since Clause 11.2 gives power to go for re-draw and as per Clause 11-2(a), 'rejection of selected candidates due to findings in the filed verification' as one of the conditions for re-draw and therefore, calling for remaining participants/applicants, in the considered opinion of the Court is in order. Accordingly, the respondent has rightly issued the re-notification on the basis of the remaining participants. That order has been challenged in the present Writ Appeal, he pleaded.



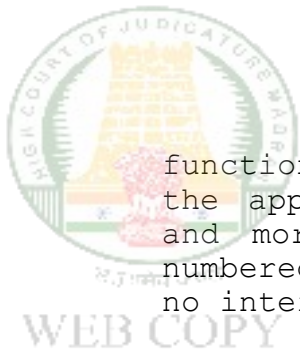
5. Learned Counsel for the respondent further submitted that during the pendency of this matter, it was also brought to the notice of the appellant that the selected candidate was not impleaded as one of the necessary parties. Therefore, a chance was also given to the appellant to implead the selected candidate which has not been done so far. Secondly, when a direction was given by this Court on 02.09.2015 in W.A.No.683/2015 to issue a re-notification affording opportunity to all the persons who have the required capacity and intention to participate in the process so as to allot the LPG Distribution ship to the most eligible person, accordingly, a redraw was conducted on 11.06.2016 from the remaining candidates. Subsequently, one Mr.Lenin Chandrakumar was selected in the draw of lot and a letter of Intent dated 23.06.2016 was issued to him. Subsequently, the Distributionship agreement was executed between Bharat Petroleum Corporation Limited and the said Lenin Chandrakumar on 16.09.2016.

6. In this regard, the Counter Affidavit filed by the respondent dated 31.01.2018 reads as follows:

'4. I submit that in view of the dismissal of the writ petition on 09.06.2016, redraw was conducted on 11.06.2016 from the remaining candidates and Mr.Lenin Chandrakumar was selected in the draw of lot. Accordingly, Letter of Intent dated 23.06.2016 was issued to him. Thereafter, the Distributionship agreement was executed between Bharat Petroleum Corporation Limited and the said Lenin Chandrakumar on 16.09.2016. From 22.09.2016 onwards the distributionship was commissioning and it has been functioning with approximately 9300 customers.

5. From the grounds of writ appeal furnished to the respondent herein, it is found that the writ appeal was presented only on 15.11.2016 and the writ appeal was numbered sometime in the year 2017. The above events took place between the date of dismissal of the writ petition and filing of the writ appeal and during the said period, there was no interim order. I am advised to submit that at this point of time, the Appellant is not entitled to pray to set the clock back.'

A perusal of the same clearly shows that when this draw of lot was held on 11.06.2016 as per the direction given by the Division Bench of this Court, finally, one Mr.Lenin Chandrakumar was selected in the said draw of lot and a letter of intent was also issued to him on 23.06.2016 followed by executing a dealership distribution agreement on 16.09.2016, which has been



functioning with approximate 9300 customers, it is not known why the appellant has presented an appeal belatedly on 15.11.2016 and moreover the same was kept pending and finally, it was numbered only in the year 2017. Interestingly enough, there was no interim order passed by this Court.

7. In view of all the above, we are of the view that the respondent has rightly as directed by the learned Division Bench of this Court held the draw of lot on 11.06.2016, therefore, nothing survives for further adjudication. Therefore, the Writ Petition filed by the appellant was rightly dismissed by the learned Single Judge of this Court. Further as we mentioned above, the appellant has not even chosen to implead the successful candidate in this Writ Appeal, therefore, on that score also, the appeal is liable to be dismissed.

8. At this stage, learned Counsel for the appellant submitted that the amount deposited by the appellant may be ordered to be refunded. In reply, learned Counsel for the respondent submitted that if it is found that any amount was deposited by the appellant, the same will be considered as per law, within a period of four weeks from the date of receipt of a copy of this Order.

9. In view of all the above, the Writ Appeal fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar(CS-II)

True Copy

Sub-Assistant Registrar

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To

The Territory Manager-LPG,
Chennai LPG Territory,
Bharat Petroleum Corporation Limited,
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New Gummidipoondi,
Tiruvallur District.

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W.A.No.203/2017

JP(CO)
SP(27/07/2021)