



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD) No.3084 of 2018

and

W.M.P. (MD) No.3240 of 2018

WEB COPY

Vinodhini Chithiravelu

... Petitioner

vs.

1.Bharat Petroleum Corporation Limited,
Rep. by its Territory Manager (LPG),
Mgm Tb Sanitorium,
Thanjavur.

2.The Tahsildar,
Kadaladi.

... Respondents

[R2 suo motu impleaded vide order dated
14.03.2018]

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned rejection order of respondent in his proceedings in Ref.TNJ:LPG:GV (Peikulam) dated 05.02.2018 and quash the same as illegal and consequentially direct the respondent to issue a Letter of Intent in respect of LPG Distribution Showroom at Peikulam Village, Kadaladi Taluk, Ramanathapuram District to the writ petitioner pursuant to advertisement dated 20.08.2017.

For Petitioner : Mr.VR.Shanmuganathan

For Respondents : Mr.S.Nateshraj (for R1)

Mr.D.Ghandiraj

Special Government Pleader (for R2)

O R D E R

The writ petition has been filed in the nature of Writ of Certiorarified Mandamus, seeking for the records relating to a rejection order of the first respondent/Bharat Petroleum Corporation in their proceedings in Ref. No.TNJ:LPG:GV, (Peikulam), dated 05.02.2018, and to interfere with the same and further to direct the first respondent to issue a Letter of Intent with respect to LPG Distribution Showroom at Peikulam Village, Kadaladi Taluk, Ramanathapuram District to the writ petitioner.



2.The petitioner had responded to an advertisement issued by the first respondent on 20.08.2017 calling for distributors of LPG under the Sheheri Vitrak, Rurban Vitrak, Gramin Vitrak and Durgam Kshetriya Vitrak Schemes. The petitioner had entered into a lease agreement on 20.09.2017 with one M.Mariamammal with respect to the lands in New S.Nos.122/1B1A2 with sub-division in S.Nos.122/1D1A1B in Patta No.7217 at Peikulam Group, Kadaladi Taluk, Ramanathapuram District.

3.The petitioner claims that the lands are situated in Sikkal Village, which is one of the villages of Peikulam Group. After examining the documents submitted by the petitioner herein, the impugned order came to be passed on 05.02.2018. In the impugned order, it had been stated that the possession of the land for LPG Showroom as projected by the petitioner was situated at Sikkal Village, Peikulam Group. It was further observed that it was situated only in Sikkal Village and not located in the Peikulam Group. It was therefore, stated that the petitioner had not fulfilled one of the essential conditions as given in the advertisement, namely, that lands are to be situated in Peikulam and therefore, the application of the petitioner was rejected. Questioning that particular order of the first respondent, the present writ petition has been filed.

4.It must be stated that the writ petition was filed only against the Bharat Petroleum Corporation Limited, as a sole respondent. Subsequently, by an order dated 14.03.2018, the second respondent/Tahsildar, Kadaladi had been impleaded as second respondent in the writ petition. I can very well visualize the wisdom in *suo-motu* impleading the second respondent/Tahsildar, Kadaladi.

5.The entire issue surrounds the location of the lands, which has been offered by the petitioner for the showroom and for the godown, as stipulated by the respondents.

6.A perusal of the advertisement issued by the first respondent would indicate that the first respondent was desirous of appointing agents for LPG Distributorship in Peikulam Village, Kadaladi Taluk in Ramanathapuram District. A little understanding of the nature and the manner in which, the villages are grouped in this State would make it obvious that the first respondent had been extremely narrow minded in rejecting the application of the petitioner. They could very well have called upon the petitioner for a personal interview, examined the documents, examined the revenue documents and thereafter could have come to a conclusion. The conclusion, the first respondent had reached was on the basis of a field visit made by the officials of the first respondent. It is not known and I doubt whether such officials have ever been exposed to the concept of a group village and a village in a



group.

7. In the instant case, the entire District is called Ramanathapuram District. In Ramanathapuram District, Kadaladi is a Taluk. In Kadaladi, there are group villages and one of them is Peikulam Group. This would consist of further small hamlets or smaller villages. But the revenue village would still be considered as Peikulam Group. In that group, the petitioner had offered lands in Sikkal Village. The postal and revenue records of Sikkal Village indicate that they are part of Peikulam group. It is not a stand alone village, having a separate identity and distinct from Peikulam group. Its identity is directly linked and associated with Peikulam Group, Kadaladi Taluk in Ramanathapuram District. Narrowing down and segregating the small hamlets from the main revenue group would only be to the disadvantage of the villagers, since any scheme, which is offered by the Government would only be offered to that particular group, in this case, Peikulam Group and the smaller villages within that particular group and in this case, the villagers of Sikkal Village would stand consequently benefited. Schemes would not be extended specifically to Sikkal Village but rather to Peikulam Group. This is a normal function, distribution and recognition of a group of villages in the revenue records. So far as the survey numbers are concerned for the lands, the survey number for Sikkal Village and for Peikulam will be one and the same. It is something like a number of streets or roads in a particular area and there cannot be a restriction that one should reside only in one particular street or in one particular road to get advantage of a scheme which is extended to that particular area. The concept is quite simple. The concept has to be understood. The concept has to be sensitized and made known to the officials of the first respondent. Had they known about it, this writ petition would not have come before this Court at all. The first respondent could very well, as stated above, invited the petitioner, called the local Tahsildar for a discussion and thereafter, have taken a decision, which has been crystallized in the impugned order.

8. On this particular aspect, the learned counsels have brought in the Judgments to substantiate the writ petition stands.

9. The learned counsel for the petitioner had relied on the decision of a Division Bench of this Court reported in **2017 (8) MLJ 20** in the case of **R.Vennila Vs. Indian Oil Corporation and Others**. The Hon'ble Division Bench of this Court was concerned with an advertisement of similar nature. No advertisement can ever be issued signifying a particular hamlet, as being the place for



location of a showroom or for a godown. Facilities are not available to establish a showroom or hamlet or a godown in small hamlets. It can be in any place the group village, where showrooms or godowns, can be established. In the instant case, the advertisement is for Peikulam and Sikkal Village, which forms part and parcel of Peikulam Revenue Group.

10. In the above said Judgment of R.Vennila referred *supra*, the Division Bench of this Court was concerned with an advertisement which has called for distributorship in Jambukuttapatti Revenue Village in Krishnagiri District. It had been observed that the said revenue village consists of six hamlets, namely, Pochampalli, Jambuguttapatti, Madathanoor, Errampatty, Kullanoor and Konanoor. The petitioner therein had given the lands for showroom/godown in Pochampalli Village. That was rejected stating that it should be only in Jambukuttapatti Village.

11. It was very clearly observed by the Division Bench of this Court pointing out the concept of a small hamlet and group concept of a village that Pochampalli should also be accepted and should not be rejected. The report of the Tahsildar, had been relied on by the Division Bench of this Court in that particular case and that report is extracted below:-

"...20. It is pertinent to note that the third respondent-Tahsildar filed an affidavit, dated 18.06.2014 before this Court, wherein, in paragraph 2, it has been stated as follows:

"2. I submit that as per the Krishnagiri District Special Gazettee there is one Village in the name of No.22 Jambuguttapatti Revenue Village and it comes under the jurisdiction of Pochampalli Taluk. The said Jambuguttapatti Revenue Village consists of 6 Hamlets like Pochampalli, Jambuguttapatti, Madathanoor, Errampatty, Kullanoor and Konanoor. I submit that the S.No.600/1 (New S.No.600/1A) and S.No.603(New S.No.603/1) of Jambuguttapatti Village are comes within the limits of Pochampalli Village. All the lands in Pochampalli Village are described in the Revenue Records as survey numbers of "JAMBUGUTTAPATTY" Revenue Village. I submit that there are no separate survey numbers in the name of Pochampalli Village."

It is thus, seen that the Division Bench of this Court had recognized that lands in a particular village in a group village can be accepted. The facts are exactly similar to the facts of the present case.



12.The learned counsel for the first respondent relied on a Judgment of another Division Bench of this Court in ***W.A. (MD) No. 866 of 2014, dated 15.07.2016 [M.Rajiv Pandian Vs. Hindustan Petroleum Corporation and another]***.

13.The facts in that particular case are slightly different. The reason for rejection was that the petitioner or rather the appellant therein, who claimed to be a resident of a particular village was in fact found not to be a resident. It was insisted by the Division Bench of this Court, that the scheme was offered for residents and if some third party stranger claims residency in a particular village, wherein, the distributorship is opened up, then that particular person never cannot be granted dealership. The reasons had been given as follows:-

"...9....It is therefore, essential that the dealer must be a resident of the village and he must also be able to establish the godown in the same village so that the supply chain functions smoothly. We are, therefore, of the opinion that the decision of the Hindustan Petroleum Corporation that the application of the writ petitioner/appellant is non-responsive, is not without any merit."

The issue of residency was again pointed out in para.12 of the said Judgment:-

"..12.But, nonetheless, the Residence Certificate which he himself produced did not disclose that he is a resident of Ammaianayakkanur..."

The issue was not whether Ammaianayakkanur Village, it was a separate revenue village or whether it formed part of Malayakoundanpatty Panchayat Union or within Ammaianayakkanur Special Village Panchayat. That fact was not examined by the Division Bench. They stopped with examining whether the appellant was a resident of the village and thereafter, since it was found that he was not a resident, thought it fit uphold the order declining to grant him dealership. There was yet another aspect, namely, whether the petitioner belonged to OBC category.

14.This again is not a aspect raised in this case. As a matter of fact in the advertisement in this particular case, the dealership was for Scheduled Caste Candidates.

15.Another Judgment was relied on by the learned counsel for the first respondent again by a Division Bench of this Court in ***W.A. (MD) No.156 of 2018, dated 20.02.2018 [G.Bibin Gnanakumar Vs. Hindustan Petroleum Corporation Limited and others]***. In that particular Judgment at paragraph No.4 it had been stated as



"...4.The learned Counsel appearing for the appellant/writ petitioner, would contend that originally, the land of the petitioner was situated in Midalam Village and later on, it was divided as Midalam-A, Midalam-B, Karungal and Mathicode Villages and it was done even prior to the notification and however, the respondents/Hindustan Petroleum Corporation has failed to take into consideration the said division and would further add that the land of the petitioner is located just 3 kms away from Midalam A revenue Village and as such there is no impediment to consider his application."

Midalam Village in that case was found to have been later on divided as Midalam-A, Midalam-B, Karunkal and Mathicode villages. That was prior to the notification. This was one of the contentions raised by the learned counsel for the appellant. However, the Division Bench of this Court had stated that the land of the petitioner was located in Karunkal Village and not in Midalam-A or Midalam-B villages. There was a division of the revenue group and therefore, the appellant therein was not granted the dealership.

16.In the instant case, Sikkal Village lies within the group of Peikulam Group. The report of the Tahsildar had also been forwarded by the learned Special Government Pleader and I must also take the same into consideration. In the report, the Tahsildar had very clearly stated that the entire area is Kadaladi, the Revenue Village is Peikulam and in the very same Revenue Village, Sikkal Village forms part of that particular Revenue Village. The report of the revenue officials cannot be disregarded. It has to be accepted. The officials know the exact location of any place within their jurisdiction. The Tahsildar has given a statement that Sikkal Village forms part of Peikulam Revenue Group.

17.The Tahsildar had also filed an affidavit in this regard. He had very clearly stated with respect to the survey numbers specifically given by the petitioner herein as follows:-

"...iv. These survey numbers viz., S.Nos.122/1B1A2 and 122/1D1A1B is located as above and there is no such survey numbers separately at Peikulam Village and at Sikkal Village. In other words if reference is made to said survey numbers, it refers only to survey numbers in Peikulam Revenue Village, which are actually located in Sikkal Hamlet Village."

18.It is thus, seen that the Tahsildar had very clearly stated that the survey numbers given by the petitioner refers only to



survey number in Peikulam Revenue Village, which is actually located in Sikkal Hamlet Village. The very concept of a hamlet is of a cluster of small houses. It is that area, which requires economic development. People from that area must be appointed as distributors to actually distribute the LPGs to various houses. The first respondent cannot take the stand of an ostrich and not examine the reality of the situation. They must come forward with a more benevolent attitude to examine whether broadly, the petitioner would be able to serve the interests of the first respondent. I therefore hope that much sense would prevail upon the first respondent and the first respondent would not keep harping on pride and prejudice.

19.The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sjj

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Territory Manager (LPG),
Bharat Petroleum Corporation Limited,
Mgm Tb Sanitorium,
Thanjavur.

2.The Tahsildar,
Kadaladi.

+1 CC to M/s.SPL GP (SR-38358[F] dated 13/12/2021)

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