



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.17781 of 2009

M.Ramachandran

... Petitioner

Vs.

1.Hindustan Petroleum Corporation
Ltd., repled. by its Chairman,
having Regd. Office at No.117,
Jamshedji Tata Road,
Mumbai - 400 020.

2.Hindustan Petroleum Corporation
Ltd., rep. by its General
Manager - South Zone, 4th Floor,
No.8 (New No.1), Gandhi - Irwin
Road, Egmore,
Chennai - 600 008.

3.Hindustan Petroleum Corporation
Ltd., repled. by its Senior
Manager (MVM), Madurai Regional
Office, 167 - 172, Sidco Industrial
Estate, South Phase, Kappalur,
Madurai - 625 008.

4.S.Muthukumar

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the Respondents 2 herein comprised in the impugned order of rejection of the petitioner's valid objections in Ref.SZ/RRK/LEGAL dated July 16, 2009 passed by the 2nd respondent herein, quash the same and direct the Respondents 1 to 3 herein to consider the petitioner's better merits and eligibility afresh and select him for award of Retail HPC Outlet for Muthupet in Tiruvarur District as notified by the Respondent - Corporation under Scheduled Caste quota by revoking the award favouring the 4th respondent.



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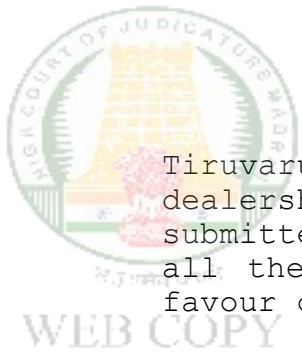
For Petitioner : M/s.M.Balasubramanian
For Respondents : Mr.M.Vijayan for R1 to R3
for M/s.King and Partridge
M/s.Jebadas Pandian for R4

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records of the second respondent comprised in the impugned order of rejection of the petitioner's valid objections in Ref.SZ/RRK/LEGAL dated July 16, 2009 passed by the second respondent, quash the same and to direct the respondents 1 to 3 to consider the petitioner's better merits and eligibility afresh and select him for award of Retail HPC Outlet for Muthupet in Tiruvarur District as notified by the respondent - Corporation under Scheduled Caste quota by revoking the award favouring the fourth respondent.

2.The case of the petitioner is that pursuant to the advertisement made by Hindustan Petroleum Corporation Limited [in short, 'HPCL'], the petitioner had applied for its Retail Outlet Dealership to be located at Muthupet in Tiruvarur District under Schedule Caste Category. The respondents 1 to 3 conducted interview on 12.03.2005 at about 9.30 a.m., and the petitioner participated in the interview. However, the fourth respondent was selected for running the HPCL Outlet. Hence, the petitioner submitted representation - cum - objection through his counsel to the respondents and the said objection was rejected by the second respondent vide order dated 12.11.2008. Aggrieved by the same, the petitioner filed W.P.No.4395 of 2009 before this Court and this Court vide order dated 23.04.2009 set aside the order impugned in the said writ petition and remitted the matter back to the second respondent for passing a speaking order. Thereafter, the impugned order was passed by the second respondent. Hence, this writ petition.

3.The learned counsel appearing for the petitioner submitted that this writ petition has been filed mainly on three grounds, namely, (i) a family member of the fourth respondent own a petrol bunk at Velankanni. Once, a family member own a petrol bunk, other family member is not entitled for dealership of retail outlet. To substantiate the same, the learned counsel relied upon the public notice issued by one Sivasamy through his counsel on 22.02.2008; (ii) the fourth respondent is a practising Advocate and without obtaining prior permission from the Bar Council of Tamil Nadu applying for dealership of HPCL Retail Outlet is non est in law; and (iii) the respondent Corporation fixed the outlet business place at Muthupet in



Tiruvavarur District, however, the fourth respondent was given dealership in a far away place. The learned counsel further submitted that the respondent Corporation, without considering all these defects granted dealership of HPCL Retail Outlet in favour of the fourth respondent is not sustainable one.

4.The learned counsel appearing for the respondents 1 to 3 submitted that the conditions prescribed in the Notification was scrupulously followed by the respondent Corporation and after following the entire process, rightly granted dealership of HPCL Retail Outlet in favour of the fourth respondent, which is legally sustainable one.

5.The learned counsel appearing for the respondents 1 to 3 further submitted that the fourth respondent is a married man and he is not coming under the definition of family member of the person who own petrol bunk at Velankanni. Though the fourth respondent is a practising Advocate, there is no necessity for him to get prior permission from the Bar Council of Tamil Nadu while applying for dealership of HPCL Retail Outlet. Only, after he gets selected, he need to dis-continue his practice as an Advocate. Though the respondent corporation fixed the outlet business place at Muthupet in Tiruvavarur District, however, the fourth respondent was given dealership in a far away place and it is not the fault of the fourth respondent. It is the wisdom of the respondent Corporation to locate a place, in which, the petitioner is not an aggrieved person. Hence, the grounds raised by the petitioner is not sustainable one.

6.The learned counsel appearing for the fourth respondent submitted that the petitioner did not file any objection in his individual capacity and he made his representation - cum - objection through his counsel. The respondent Corporation is a non-judicial forum and hence, making representation - cum - objection through counsel is not sustainable one. The learned counsel further submitted that the public notice was issued by the fourth respondent's father as against his brother Kalaiselvan for family dispute and it does not mean that the fourth respondent is coming under the purview of family member. Hence, the dealership granted to the fourth respondent cannot be interfered with.

7.Heard the arguments advanced on either side and perused the materials available on record.

8.The facts in the case is not in dispute. Pursuant to the advertisement made by HPCL, the petitioner applied for its Retail Outlet Dealership to be located at Muthupet in Tiruvavarur District under Schedule Caste Category and participated in the interview on 12.03.2005 at about 9.30 a.m., however, the fourth



respondent was selected for running the HPCL Retail Outlet. Aggrieved by the same, the petitioner submitted representation - cum - objection through his counsel to the respondent Corporation and the said objection was rejected by the second respondent vide order dated 12.11.2008. Challenging the same, the petitioner filed W.P.No.4395 of 2009 before this Court and this Court vide order dated 23.04.2009 set aside the order impugned in the said writ petition and remitted the matter back to the second respondent for passing a speaking order. Thereafter, the impugned order was passed by the second respondent. Hence, the petitioner has filed this writ petition mainly on three grounds.

9.The first ground raised by the petitioner is that a family member of the fourth respondent own a petrol bunk at Velankanni. Hence, the fourth respondent is not entitled for dealership of retail outlet. To substantiate the same, the learned counsel appearing for the petitioner relied upon the public notice issued by one Sivasamy through his counsel on 22.02.2008. Perusal of records reveal that the said public notice was issued by the father of the fourth respondent as against one of his brother with regard to property dispute and that has nothing to do with the present application made by the fourth respondent for the dealership of the retail outlet. Though the fourth respondent's father had obtained licence for running a petrol bunk at Velankanni in the name his brother that is not a bar for the fourth respondent to participate in the selection process since the fourth respondent is a married man and he is not coming under the definition of family member of the person who own petrol bunk at Velankanni. Hence, the first ground raised by the petitioner is not sustainable one.

10.The second ground raised by the petitioner is that the fourth respondent is a practising Advocate and without obtaining prior permission from the Bar Council of Tamil Nadu applying for dealership of HPCL Retail Outlet is non est in law. Though the fourth respondent is a practising Advocate, there is no necessity for him to get prior permission from the Bar Council of Tamil Nadu while applying for dealership of HPCL Retail Outlet. If at all he succeeds in the selection process, it is the duty caste upon him to suspend his practice with the Bar Council. Hence, the second ground raised by the petitioner is also not sustainable one.

11.The third ground raised by the petitioner is that the respondent Corporation fixed the outlet business place at Muthupet in Tiruvarur District, however, the fourth respondent was given dealership in a far away place. The respondent Corporation selected the location. This Court cannot render any findings as against the Corporation since it is the domain of



the Corporation. Hence fixing responsibility and disqualification against the fourth respondent is non est in law. Hence, the third ground raised by the petitioner is also not sustainable one.

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12. Further the writ petition is of the year 2009. Hence, after a lapse of more than a decade, the prayer sought for in the writ petition cannot be considered.

13. In view of all the above, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition, if any, is closed.

Sd/-

Assistant Registrar (CS-IX)

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Sub Assistant Registrar

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To

1. The Chairman,
Hindustan Petroleum Corporation Ltd.,
having Regd. Office at No.117,
Jamshedji Tata Road,
Mumbai - 400 020.

2. The General Manager
Hindustan Petroleum Corporation Ltd.,
South Zone, 4th Floor,
No.8 (New No.1), Gandhi - Irwin
Road, Egmore,
Chennai - 600 008.

3. The Senior Manager (MVM),
Hindustan Petroleum Corporation Ltd.,
Madurai Regional
Office, 167 - 172, Sidco Industrial
Estate, South Phase, Kappalur,
Madurai - 625 008.

+1cc to M/s. King & Partridge, Advocate, S.R.No.35059
+1cc to M/s. M. Balasubramanian, Advocate, S.R.No.34729

W.P.No.17781 of 2009

PM(CO)
SB(01/07/2022)