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WP.Nos.44295 & 44296/2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

WP.Nos.44295 & 44296/2016 & WMP.Nos.38146 & 31848/2016

Mrs.Thilagavathi Senthilkumar

... Petitioner in
both Writ Petitions

Vs

1.Bharat Petroleum Corporation Ltd
rep.by its Territory Manager
Peelamedu, Coimbatore 641 004.

... R1 in
WP.No.44295/2016 &
Respondent in WP.No.
44296/2017

2.Mrs.S.Maheswari

... R2 in
WP.No.44295/2016

Prayer in WP.No.44295/2016: Writ Petition filed Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records of the 1st respondent pertaining to the impugned order No. TN/CBE/OM2/2013 dated 12.12.2016 and to quash the same.



WP.Nos.44295 & 44296/2016

Prayer in WP.No.44296/2016: Writ Petition filed Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records of the respondent pertaining to the impugned order No.CBE.LPG.OMALUR-2 dated 26.08.2016 and to quash the same.

For Petitioner in
both Petitions : Mr.R.Ravi for Mr.V.Karthikeyan

For R1 in WP.No.
44295/16 & Sole
Respondent in
WP.No.44296/16 : Mr.M.Vijayan for
M/s.King and Patridge

ORDER

- (1) WP.No.44296/2016 has been filed by the petitioner challenging the order of cancellation of the selection of the petitioner for being appointed as a Dealer of Liquified Petroleum Gas [LPG] for Omalur Town, by the respondent vide order dated 26.08.2016.
- (2) The respondent/Corporation called for applications from eligible persons for being appointed as LPG Distributor for Omalur area and the petitioner had applied, pursuant to the Advertisement, for being appointed as a Dealer. The petitioner was selected in the draw of



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lots. The documents submitted by the petitioner were verified by the respondent/Corporation. During such verification, it was found that the Lease Deed regarding the land for the Godown dated 07.10.2013 had certain objectionable clauses, which enabled the landlord to construct on the first floor as well as to have periodical inspections. Since the purpose of the lease is for a LPG Godown, the respondent/Corporation felt that such conditions would be unworkable and cancelled the selection of the petitioner. Immediately, the petitioner attempted to get the Lease Deed rectified. Since she could not succeed in her attempts to get the Lease Deed rectified, she wrote to the respondent/Corporation requiring some time and also informed the respondent/Corporation that the land owner had given an affidavit waiving those objectionable conditions. A copy of the affidavit was also forwarded to the respondent/Corporation.

- (3) The respondent/Corporation however did not accept the affidavit and chose to cancel the selection of the petitioner by proceedings dated 26-08-2016 and called for a fresh draw of lots by its advertisement



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dated 12.12.2016. The petitioner moved this Court by filing WP.No.44295/2016 challenging the communication calling for the fresh drawal of lots and this Court had granted stay of the said proposal to call for a fresh draw of lots. In view of the stay granted by this Court, no further proceedings had taken place and the Dealership remains unallotted till date.

- (4) At the hearing of the writ petitions, the petitioner has produced the registered Rectification Deed which was registered on 26.10.2016. A copy of the same was also forwarded to the respondent/Corporation on 27.10.2016 itself.
- (5) Mr.R.Ravi, learned counsel for the petitioner would vehemently contend that inasmuch as the defects were rectified even before the fresh drawal of lots were called for, the respondent/Corporation could have done well to accept the Rectification Deed and had a re look at the petitioner's cause. According to the learned counsel, the objectionable clauses have since been removed, there is no bar for the respondent/Corporation to reconsider the claim of the petitioner.



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(6) Mr.M.Vijayan, learned counsel appearing for the respondent/Corporation would submit that in view of the fact that stay was granted by this Court, the subsequent selection had not happened and the respondent/Corporation was not able to appoint a Dealer for more than six years now. He would also point out that the guidelines issued for the selection of LPG Distributors are very clear with reference to the requirement of a Godown and introduction of clauses entailing the owner of the land to inspect the premises to built a first floor are clearly in violation of the guidelines and therefore, the respondent/Corporation was justified in cancelling the allotment made to the petitioner.

(7) I have considered the rival submissions.

(8) No doubt, the Lease Deed as it originally stood, had certain clauses which were objectionable, considering the purpose of the lease. However, even before the respondent/Corporation could call for a fresh drawal of lots, i.e., on 12.12.2016, the petitioner has got the Rectification Deed registered removing those objectionable clauses and the petitioner submitted it for consideration of the



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respondent/Corporation. The respondent/Corporation could have done well to have considered the cause of the petitioner. Now that the re drawal of lots has not happened in view of the stay granted, the respondent/Corporation can even now reconsider the cancellation of the selection of the petitioner based upon the documents that were produced by the petitioner on 27.10.2016. Of course, there has been some delay ; but the petitioner alone cannot be blamed for the delay.

- (9) In view of the fact that no third party interest has been created and the petitioner has been selected in the drawal of lots, I do not think that the claim of the petitioner should be rejected without reconsideration.
- (10) In view of the above, the writ petitions are **allowed** and the impugned order of the respondent/Corporation dated 26.08.2016 and the consequential order dated 12.12.2016 calling for fresh redrawal of lots, are hereby **quashed**.
- (11) The respondent/Corporation is required to reconsider the claim of the petitioner in the light of the documents now produced by the petitioner and appoint the petitioner as a Dealer if she satisfies the requirements under the guidelines. No costs. Consequently,



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connected miscellaneous petitions are closed.

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AP

Internet : Yes

To

The Territory Manager
Bharat Petroleum Corporation Ltd
Peelamedu, Coimbatore 641 004.



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R.SUBRAMANIAN, J.

AP

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