



W.A(MD)No.702 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 14.12.2022

CORAM

**THE HON'BLE DR JUSTICE G.JAYACHANDRAN
AND
THE HON'BLE MR JUSTICE SUNDER MOHAN**

W.A.(MD)No.702 of 2020
and
C.M.P(MD)No.4160 of 2020

1.Bharat Petroleum Corporation Ltd.,
Having its registered office at
Bharat Bhavan,
4&6, Currimbhoy Road, Ballard Estate,
Mumbai-400 001.

2.The Regional Manager LPG South,
Bharat Petroleum Corporation Ltd.,
Chennai.

3.The Territory Manager,
Bharat Petroleum Corporation Ltd.,
Madurai Bye-pass Road,
Tuticorin-628 008.

.. Appellants/Respondents 1to3

Vs.

1.Indira
2.S.Sangeetha

.. Respondent/Petitioner
.. Respondent/4th respondent



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Appeal filed under Clause 15 of the Letters Patent, praying this Court, to set aside the order dated 29.07.2019 passed in W.P(MD)No.16394 of 2018 on the file of this Court by allowing this Writ Appeal.

For Appellants :Mr.S.Nateshraj

For Respondent :Mr.G.Ethirajulu,
for Mr.P.Arun Jeyatram

JUDGMENT

DR G.JAYACHANDRAN,J.
AND
SUNDER MOHAN,J.

The dealership of LPG gas cylinder offered by Bharat Petroleum Corporation/appellant in favour of the first respondent, viz., Indira, came to be cancelled alleging that she has not furnished true facts regarding the land available for establishing the godown. This order is being challenged by the first respondent in W.P(MD)No.16394 of 2018 alleging that the land shown for the godown is being jointly purchased by the first respondent along with her sister Sangeetha vide Document, dated 28.11.2007. The land measuring 90 cents is owned by her co-sister Sangeetha. While so, alleging that there is a suppression of fact, awarding of 25 marks for possession of land, is being



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withdrawn and the dealership was cancelled without proper application of mind.

2.This Court, on considering the facts of the case, has passed a detailed order, on 29.07.2019 holding that the allotment of dealership can be cancelled only in case of non-disclosure of true and correct facts in the application for dealership. Whereas, in the case on hand, the petitioner has fulfilled all the norms set out in the brochure and there is no false declaration and therefor quashed the impugned order cancelling the dealership and allowed the writ petition. The said order is under challenge in this writ appeal.

3.The learned counsel appearing for the Bharat Petroleum would submit that under column 13(A)(1) of the application, the applicant has to provide details regarding the land where the godown is proposed to be established along with dimensions. The first respondent herein has declared that the land in S.No.60/3-3A at Mandaikulam, Natham Road, Madurai, is owned by her, by virtue of sale deed, dated 19.05.2008 and it measures 63.6 Metre x 40 Metre. Subsequently, during the field verification, it is found



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that there is no document to prove that the applicant is the owner of the plot shown in the application. Hence, the application was rejected for not establishing the ownership of the land, following the dictum laid down by the High Court in the case of *Indian Oil Corporation Ltd.,-vs-J.Ranjith*, reported in **2012(5)CTC 577**.

4.The learned counsel for the first respondent would submit that the applicant is a co-owner of the property, which was purchased jointly along with her co-sister, as per the sale deed, dated 28.11.2007 and her co-sister viz., Sangeetha, who is the fourth respondent in the writ petition, has given No objection for utilizing her share as godown for LPG cylinder. Even otherwise, undivided 50% of the share clearly satisfied the requirement for establishing godown as per the notification. Therefore, there is no suppression of fact or misdeclaration of fact as alleged by the appellant.

5.Heard the learned counsel appearing for the appellants and the learned counsel appearing for the respondents and perused the materials available on record.



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6.It is a classic case to demonstrate as to how an applicant can be deprived of his lawful and legitimate right, even if he is fully eligible citing extraneous reasons.

7.The respondent, who is the co-owner of 90 cents of land along with her sister holds 45 cents and it is sufficient to meet out the requirements prescribed by the Bharat Petroleum for establishing godown. Besides that, she has also obtained No Objection Certificate from her co-sister, who is the co-owner of the said land. The appellant has found reason to deprive her dealership by stating that she has suppressed the fact, which, in view of the learned Single Judge, is not proper.

8.The learned counsel appearing for the appellants having failed to convince this Court that there is a suppression of fact regarding the property tried to project an alternate reason for rejection by pleading the land owned by her husband is shown his surety but it is not her husband property exclusively. It stands in the name of 5 persons, including the husband of the applicant. The same fact has not been disclosed in the application.



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9.This is also yet another flimsy reason to find fault with the application. On perusal of the information furnished by the applicant regarding the property owned by her husband, she has mentioned that her husband is the owner of the said land and his share is worth Rs.42, 50,000/-. Though the property belongs to him and his family members, this is not the relevant fact to determine the eligibility to establish the LPG dealership. Hence, there is no suppression of fact in the details furnished by the applicant either regarding the land or the value of the property owned by her husband.

10.The learned Single Judge has gone into other details of the application and the information furnished by the first respondent and has held that the impugned order of the appellants rejecting the first respondent from getting dealership, is erroneous and the impugned order is liable to be quashed.

11.This Court has no other opinion except to confirm the order of the learned Single Judge. The judgment circulated by the learned counsel for the appellants to buttress his submissions, is considered by the learned



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Single Judge and distinguished that the judgment is vice versa to the facts of the case on hand.

12. Therefore, there is no necessity to reiterate the same, except to confirm the view of the learned Single Judge, when there is no suppression of fact and to reject the application is highly deplorable. Though this Court initially intends to dismiss the appeal with cost, taking note of the fact that the appellants is a Public Sector Company, Court is not inclined to impose the costs.

13. In view of the above, this Writ Appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(G.J.,J.) (S.M.,J.)
14.12.2022

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