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WA No.564 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA , CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

WA No.564 of 2023

Indian Oil Corporation Ltd.,
rep. By its Chief Manager – Marketing,
Chennai Divisional Office,
500, Anna Salai,
Teynampet, Chennai 18

... Appellant

Vs

R.Nagappan

... Respondent

Prayer: Writ appeal filed under Clause 15 of the Letters Patent to set aside the order dated 15.02.2023 in WP No.34807 of 2022.

For the Appellant :: Mr.Mohammed Fayaz Ali

For the Respondents :: Mr.Ashwin Shanbhag

Mr.Najeeb Usman Khan,
for the intervenor



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JUDGMENT

(Made by the Hon'ble Chief Justice)

Heard Mr.Mohammed Fayaz Ali, learned counsel for the petitioner, Mr.Ashwin Shanbhag, learned counsel for the respondent and Mr.Najeeb Usman Khan, learned counsel for the intervenor.

2. The present respondent had filed a writ petition before the learned Single Judge seeking directions against the present appellant to reevaluate the petitioner's financial capability as on 30.08.2022.

3. The appellant had invited applications for a retail outlet. The respondent, original writ petitioner, was one of the participants. According to the writ petitioner, he possessed an amount of more than Rs.35,54,104.44 in his bank account. However, the appellant had considered only an amount of Rs.22,10,104.44, on the ground that on 29.08.2022, only the said amount was standing to the credit of the respondent in the bank account; whereas on 30.08.2022, the amount standing to the respondent's credit in the



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bank account was Rs.35,54,104.44. The application was uploaded on 30.08.2022.

4. The learned Single Judge allowed the writ petition and directed the appellant to take into consideration the financial capability of the respondent/writ petitioner as on 30.08.2022. The same is assailed in the present appeal.

5. The learned counsel for the appellant submits that the respondent in his application has specifically mentioned the date as '29.08.2022'. As such, the financial capability as on the said date only has to be considered. The learned counsel relies upon clause 5.2.1 and note thereunder. The learned counsel submits that the applicant was required to meet all the eligibility criteria as on the date of application. The date of application was 29.08.2022. As such, as on the date of application, the financial capability is required to be evaluated. If the respondent would not have mentioned any date on the application, then the date '30.08.2022' would have been considered. However, as the date '29.08.2022'



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was specifically mentioned by the respondent, it is only on that date, the financial capability of the respondent is required to be evaluated. In clause 5.2.1, it has been specifically provided that the funds mentioned in the application form should be available with the applicant as on the date of application, which should be mandatorily filled-in by all applicants. In light of that, no other view was possible.

6. The learned counsel for the appellant relies on the judgment of the Apex Court in the case of *W.B.State Electricity Board Vs. Patel Engineering Co. Ltd. and others*, (2001) 2 SCC 451, the judgment of Division Bench of this Court in the case of *Tamil Nadu Police Housing Corporation Ltd., Vs. P & C Projects (P) Ltd.*, 2018 (5) CTC 387; and another judgment of Division Bench of this Court in the case of *K.M.Mustafa Vs. Indian Railway Catering & Tourism Corporation (IRCTC) Ltd.*, 2019 (2) CTC 413, to contend that if the mistake, though unintentional, but is not beyond the control of the party, then in that case, such a mistake cannot inure to the benefit of that party. If the bidder fails to follow the rules and regulations



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as set-forth, the bidder cannot gain an advantage by his mistake.

7. We have also heard the learned counsel for the intervenor, one of the participants, who submits that the intervenor has followed all the rules and regulations.

8. We have also heard the learned counsel for the respondent/original writ petitioner. He supports the order passed by the learned single Judge.

9. The dispute amongst the parties lies in a narrow compass. The respondent had mentioned the date as '29.08.2022', in his application. However, he uploaded the said application only on 30.08.2022. These are undisputed facts. It is not disputed that the respondent had filed the application with the present appellant only on 30.08.2022, though he had mentioned the date as '29.08.2022' in his application. For all factual and practical purposes, the date of application would be the date on which it is filed with the principal; in the present case, the appellant. It is also not disputed that as on



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the date the application was filled-in or was filed with the appellant i.e. 30.08.2022, the balance amount in the account of the present respondent was Rs.35,54,104.44. According to the appellant, the date mentioned by the respondent in the application would be the material date. Reliance is placed on clause 5.2.1.

10. Date of application would be the date when it is filed with the appellant. A person may mention any date in the application, as the date he is filing the application, but the actual date is, when it is filed with the appellant. It is undisputed that the respondent had filed the said application with the appellant only on 30.08.2022 and on that day, he had an amount of Rs.35,54,104.44 in his account.

11. Be that as it may, we are not concerned with how much amount the respondent had in his account on 30.08.2022. We are only concerned with the relevant date to be considered by the appellant for considering the financial capability.

12. As we have held that the relevant date of application



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would be the date when it is filed with the appellant, then, there is no gain in saying that the respondent had put the date '29.08.2022' in the application, and that is the date that should be considered, though it is filed with the present appellant only on 30.08.2022.

13. The learned single Judge has considered all the aspects of the matter and has exercised his discretion of judicial review in a reasonable manner. It is trite that the appellate court would be loath in interfering with the discretion exercised by the learned single Judge.

14. For all the aforesaid reasons, we do not find any merit in the appeal. The appeal is dismissed. There will be no order as to costs. Consequently, CMP Nos.5668 & 8910 of 2023 of 2023 are closed.

(S.V.G., CJ.)

(P.D.A., J.)

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