



W.A.Nos.954 and 2612 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.09.2023

CORAM :

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

AND

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

W.A.Nos.954 and 2612 of 2023

W.A.No.954 of 2023:

D.Dakshinamoorthy

.. Appellant

Vs

1.The Executive Director,
Indian Oil Corporation Ltd.,
Tamil Nadu State office,
Indian Oil Bhavan,
No.139, N.H. Road,
Chennai-600 034.

2.Committee of Senior Officers,
Indian Oil Corporation Ltd.,
Tamil Nadu State office,
Indian Oil Bhavan,
No.139, N.H. Road,
Chennai-600 034.

3.The Dealership Selection Committee,
IBP Co. Ltd., (Now known and Indian Oil Corporation Ltd.)
No.10, Mayor V. Ramanathan Road,
Chetput, Chennai-600 031.



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4.The Divisional Manager,
IBP Co. Ltd., (Now known and Indian Oil Corporation Ltd.)
No.10, Mayor V. Ramanathan Road,
Chetput, Chennai-600 031.

5.K.Ramalingam

.. Respondents

W.A.No.2612 of 2023:

D.Dakshinamurthy

.. Appellant

Vs

1.I.B.P.Co. Ltd.,
(Now known as Indian Oil Corporation Ltd.)
rep. by its Chairman and Managing Director,
IBP House,
No.34A, Nirmal Chandra Street,
Kolkatta-13.

2.The Divisional Manager,
IBP Company Ltd.,
(Now known as Indian Oil Corporation Ltd.)
No.10, Mayor V.Ramanathan Road,
Chetput, Chennai-31.

3.The Dealership Selection Committee,
IBP Co. Ltd.,
(Now known as Indian Oil Corporation Ltd.)
No.10, Mayor V.Ramanathan Road,
Chetput, Chennai-31.

4.K.Ramalingam

.. Respondents



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Prayer in W.A.No.954 of 2023: Appeal under Clause 15 of the Letters Patent against the order passed by the learned Single Judge in W.P.No.5402 of 2009 dated 20.03.2023.

Prayer in W.A.No.2612 of 2023: Appeal under Clause 15 of the Letters Patent against the order passed by the learned Single Judge in W.P.No.48693 of 2006 dated 06.08.2008.

For the Appellant : Mr.P.Satheesh Kumar
(Appellant in W.A.954/2023)

Mr.P.Satheesh Kumar
for M/s.Pathy and Pathy
(Appellant in W.A.2612/2023)

For the Respondents : Mr.R.Ravi
for respondents 1 to 4
in W.A.No.954 of 2023
and respondents 1 to 3
in W.A.No.2612 of 2023

: Mr.W.Abdul Masjid
for respondent No.5
in W.A.No.954 of 2023
and respondent No.4
in W.A.No.2612 of 2023

COMMON JUDGMENT
(Delivered by the Hon'ble Chief Justice)

We have heard Mr.P.Satheesh Kumar, learned counsel for the appellant; Mr.R.Ravi, learned counsel for the respondents 1 to 4 in



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W.A.No.954 of 2023 and respondents 1 to 3 in W.A.No.2612 of 2023; and, Mr.W.Abdul Masjid, learned counsel for respondent No.5 in W.A.No.954 of 2023 and respondent No.4 in W.A.No.2612 of 2023.

2. For the sake of convenience, the parties are referred to as per their array in W.A.No.954 of 2023.

3. W.A.No.954 of 2023 is filed against the order of the learned Single Judge of this Court dated 20.03.2023 passed in W.P.No.5402 of 2009. The present appellant is the original petitioner. The appellant had challenged the decision dated 15.12.2008 thereby rejecting the complaint of the appellant.

4. Prior to the filing of W.P.No.5402 of 2009, the appellant had filed writ petition bearing No.48693 of 2006 challenging the decision of the Oil Company rejecting the application of the appellant and another writ petition bearing No.48692 of 2006 challenging the allotment of dealership to the fifth respondent.



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5. The learned Single Judge, under order dated 06.08.2008, dismissed the writ petition filed by the appellant challenging the rejection of his application and disposed of the writ petition challenging the allotment of dealership to the fifth respondent with direction that the Executive Director shall constitute a Committee to inquire into the matter and decide the issue on merits and as per law without in any way being influenced by the observation made in that order.

6. Though the appellant had filed an appeal against the order dated 06.08.2008 dismissing his writ petition bearing No.48693 of 2006 in the year 2008 bearing W.A.No. SR 73799 of 2008, there was a delay of 355 days in re-presenting the appeal. The present appellant did not take steps to get the said delay condoned and/or to circulate the matter for a period of 15 years.

7. During the course of arguments of W.A.No.954 of 2023, learned counsel for the appellant submitted that the appellant, in



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fact, had filed an appeal against the order of the learned Single Judge dismissing W.P.No.48693 of 2006. We had called for the papers from the office. In fact, the issue involved in W.A.No.954 of 2023 and W.A.No. SR 73799 of 2008 filed by the appellant earlier challenging the order dated 06.08.2008 would be inter-related. We have considered the same along with W.A.No.954 of 2023. Learned counsel for the Oil Company and the private respondent therein waived notice for the respondents. By separate order, we have condoned the delay of 355 days in filing the appeal (M.P.No.1 of 2009) and directed the Registry to number the appeal. Accordingly, the Registry registered the appeal and assigned the number as W.A.No.2612 of 2023.

8. Learned counsel for the appellant strenuously contends that the Oil Company has taken up a partisan stand. It has given different treatment to the present appellant than given to the fifth respondent. The fifth respondent has been favoured, inasmuch as opportunity is given to the fifth respondent to file an affidavit subsequently also; whereas though the appellant had filed affidavit



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in the prescribed format, only because it was not on the stamp paper, it was refused and application of the appellant was rejected. This aspect needs to be considered by this Court.

9. Learned counsel for the appellant further submitted that after directions were given by this Court in its order dated 06.8.2008 to constitute the Committee and inquire into the matter, no Committee was constituted by the Oil Company. On the contrary, in the order passed by the Executive Director of the company rejecting the complaint filed by the appellant against the fifth respondent, the Committee sat over the observations made by the learned Single Judge of this Court in its order dated 06.8.2008. The same is not permissible.

10. Learned counsel for the appellant further submits that the fifth respondent even did not own the land. He was not a lessee nor owner of the land. Only an agreement of sale was executed in his favour that too after the filing of the application by the fifth respondent. It is further submitted that the fifth respondent is not



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the resident of the said place. His application could not have been considered. According to learned counsel for the appellant, the learned Single Judge while dismissing the writ petition filed by the appellant bearing No.5402 of 2009 has not at all considered the merits of the matter and only on the ground that the appellant now would be 72 years of age, dismissed the writ petition. The same is improper. There is no maximum age limit for grant of dealership of retail outlet.

11. According to learned counsel for the appellant, the Committee also failed to consider the site offered by the appellant which has a greater sales potentiality than the site offered by the fifth respondent.

12. We have also considered the submissions made by learned counsel for the Oil Company and the private respondent.

13. The appellant is litigating with regard to the subject retail outlet since the year 2006. Since 17 years, the appellant is



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litigating.

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14. The learned Single of this Court on 06.8.2008 dismissed the writ petition (W.P.No.48693 of 2006) filed by the appellant. In the said writ petition, the appellant had challenged the decision of the Oil Company rejecting his application. Though the appellant (original petitioner) filed an appeal, he did not take care in getting the appeal numbered after condonation of the delay of 355 days in re-presenting the appeal and the same was kept pending for 15 years.

15. Be that as it may, as the complaint of the appellant qua awarding dealership to the fifth respondent was not properly dealt with, the learned Single Judge of this Court under order dated 06.8.2008 in a writ petition filed by the appellant directed the Oil Company to constitute the Committee and conduct an inquiry afresh. Pursuant to the said order, the Executive Director constituted the Committee of seven persons. The Committee had almost three sittings. The oral arguments of the appellant and the



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respondents were heard by the officers of the Committee. The Committee prepared the inquiry report and forwarded to the Executive Director and the Executive Director, as such, has passed an order rejecting the complaint of the appellant.

16. It is trite that the Court in exercise of its power under Article 226 of the Constitution of India would not sit in appeal over the decision taken by the Committee, However, it would be more concerned with the adherence to the decision making process.

17. As observed earlier, since the decision making process was not adhered to, the learned Single Judge of this Court in the year 2008 directed the Oil Company to constitute the Committee and make an inquiry. The Committee was constituted. Inquiry was conducted and the order was passed rejecting the complaint of the appellant.

18. It would not be possible under writ jurisdiction to consider the decision of the Committee as an appellate court, inasmuch as



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the Committee consists of experts in the field. Leverage has to be given to the principle with regard to selecting dealership for the retail outlet. The jurisdiction of this Court of judicial review in such matters would be in a very narrow compass. As observed supra, the jurisdiction would be to the extent of considering as to whether the decision making process was fair and reasonable.

19. The appellant has not alleged and/or proved malafides against the members of the Committee.

20. In the light of the aforesaid facts, it does not appear that the decision of the Committee is arbitrary or irrational. Only because another view is possible, writ jurisdiction cannot be invoked.

21. Moreover, it appears that the fifth respondent is running the retail outlet for more than 15 years. According to learned counsel for the Oil Company, there are no complaints against the fifth respondent in running the retail outlet.



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22. In view of all the aforesaid facts, we are not inclined to interfere with the orders impugned.

23. The writ appeals are disposed of. There will be no order as to costs. Consequently, C.M.P.Nos.9459 and 22021 of 2023 are closed.

(S.V.G., CJ.)

(P.D.A., J.)

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Index : Yes/No
Neutral Citation : Yes/No
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