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W.P.No.14611 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2023

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THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.14611 of 2023

and

WMP.No.14091 of 2023

K.Pavunesan

...Petitioner

Vs.

Indian Oil Corporation Limited,
Represented by Divisional Retail Sales Head,
(Marketing Division), Salem Divisional Office,
No.234, 1st Floor, NH-7,
Salem-Bangalore Bypass Road,
Kondalampatti, Salem-636 010.

Also having its registered office at:
G/9, Ali Yavar Jung Marg,
Bandra (East), Mumbai-400 051.

...Respondent

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to Letter bearing ref no.SLMDO/B.Agraharam on SH-60 dated 06.01.2023 by the Respondent thereby cancelling the Letter of intent bearing LOI No.M/ 2021/IN001141.TN/000073/4104/00002 dated 15.09.2021 and to quash the same.



WEB COPY



W.P.No.14611 of 2023

For Petitioner : Mr.B.Mohan

For Respondent : Mr.Mohamed Fayaz Ali

ORDER

This Writ petition has been filed seeking quashment Letter of the respondent bearing Ref No.SLMDO/B.Agraharam on SH-60 dated 06.01.2023.

2. Mr.Mohamed Fayaz Ali, learned counsel takes notice for the respondent. In view of the consent expressed by the Learned counsel appearing for either side, this petition is taken up for final disposal.

3. The case of the petitioner is that, pursuant to the newspaper advertisement dated 25.11.2018 issued by the respondent, the petitioner had applied for retail outlet dealership vide application dated 15.12.2018 and was selected for dealership based on the draw of lots conducted on 14.02.2019. Thereafter, on 25.02.2019, the petitioner remitted the Initial Security Deposit of Rs.50,000/- and subsequently, the respondent issued Letter of Intent (in short 'LOI') dated 15.09.2021 in favour of the petitioner, as per which, the petitioner has to remit a sum of Rs.15 Lakhs towards non-



W.P.No.14611 of 2023

refundable fixed fee within a period of 15 days from the date of receipt of No Objection Certificate (in short 'NOC') and Rs.4.5 Lakhs towards Security deposit at the time of issuance of appointment order. While so, the District Revenue Officer (in short 'DRO') issued NOC on 14.03.2022, however, due to Covid-19 Pandemic, as the petitioner incurred huge loss in business, he was unable to deposit the above said Security deposit and fixed fee. In such circumstances, the respondent issued Show cause notices dated 29.03.2022, 28.04.2022, 11.05.2022 and finally on 13.05.2022 for cancellation of LOI and thereby cancelled the LOI, vide impugned letter dated 06.01.2023. Challenging the same, the petitioner has come up with this Writ petition.

4. Learned counsel for the petitioner submitted that, due to Covid-19 Lockdown, the petitioner was unable to run his business, due to which, he incurred huge loss and thereby, he was not able to remit the above said amount as directed by the respondent. However, he fairly submitted that, the petitioner is ready to pay the said amount along with reasonable interest within the time stipulated by this Court.

5. Learned counsel appearing for the respondent submitted that, the



W.P.No.14611 of 2023

WEB CONTENT

respondent corporation issued a newspaper advertisement on 25.11.2018, inviting applications for retail outlet dealership for the location B.Agraharam on SH60, Dharmapuri and the petitioner's application dated 15.12.2018 bearing Application No. 15448554506078 was received and the petitioner being an eligible candidate was selected as a successful candidate and the same was communicated to the petitioner, vide email dated 16.02.2019, as per which, the petitioner also remitted a sum of Rs.50,000/- towards initial Security Deposit on 25.02.2019. Thereafter, subsequent to the inspection and verification of the land offered by the petitioner for establishing the petroleum retail outlet situated in S.No.183/2, Kongani Alli Village, measuring an extent of 1225 sq.mt., the petitioner was issued with the Letter of Intent dated 15.09.2021, as per which, the petitioner has to execute the MS/HSD Retail Outlet Dealership Agreement and furnish deposit of Rs.4,50,000/- towards Security Deposit and also has to remit a sum of Rs.15,00,000/- towards Non-Refundable fixed fee in favour of the Indian Oil Corporation Limited within 15 days from the date of receipt of NOC. While such being the case, though the DRO, Dharmapuri issued statutory NOC dated 14.03.2022 and the respondent corporation send a letter dated 12.04.2022 and the show cause notice dated 28.04.2022 and the



W.P.No.14611 of 2023

subsequent reminders to show cause notice dated 11.05.2022, 13.05.2022 and 16.06.2022, the petitioner has failed to respond to any of the aforesaid notices and has failed to meet the LOI requirements, even after a lapse of about 16 months. Therefore, the respondent corporation issued Letter for cancellation/withdrawal of LOI dated 06.01.2023, which is legal and perfectly in order. Hence, he prayed for dismissal of this Writ petition.

6. Heard learned counsel on either side and perused the material documents placed on record.

7. Admittedly, the petitioner was selected as a successful candidate for setting up retail outlet dealership in the notified location. It is also not in dispute that, the petitioner was issued with LOI dated 15.09.2021 and as per the said LOI, the petitioner has to remit a sum of Rs.4,50,000/- towards Security Deposit and a sum of Rs.15,00,000/- towards Non-Refundable fixed fee in favour of the respondent Corporation within a period of 15 days from the date of receipt of NOC and the DRO, Dharmapuri issued NOC on 14.03.2022. However, as the above said conditions was not complied with by the petitioner, the present impugned letter came to be issued, cancelling

5/10



W.P.No.14611 of 2023

the LOI issued in favour of the petitioner. However, the learned counsel for the petitioner on his own volition has come forward and submitted that, he is ready to deposit the above said amount as directed by the respondent along with reasonable interest.

8. Per contra, the learned counsel appearing for the respondent submitted that, for non-compliance of the conditions stated in the LOI dated 15.09.2021, the respondent has withdrawn the LOI based on the Clause 16 of Guidelines for Selection of Dealers for Regular & Rural Retail outlets through Draw of Lots/Bidding Process. For better appreciation, the relevant clause is extracted hereunder :-

16. LETTER OF INTENT:

If the information given in the application by the applicant is found to be correct, and no selection related complaint/court case is pending for decision, Letter of Intent will be issued to the selected candidate.

.....

Withdrawal of LOI:

In case selected candidate is unable to provide the land/develop facilities within the specified time or due to non-fulfilment of terms & conditions of LOI, then LOI can be withdrawn. A show cause notice should be given to the LOI holder and based on his reply decision to withdraw LOI can be taken by Competent Authority as per internal



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W.P.No.14611 of 2023

policy of individual OMCs. In such situations Initial Security Deposit would be forfeited.

The Initial Security Deposit would also be forfeited if the selected candidate is unable to submit the total bidding amount/fixed fee within the stipulated time or he withdraws for any reason, his selection would be treated as cancelled and LOI withdrawn.

9. On perusal of the above said clause it is evident that, if the selected candidate does not fulfil the terms and conditions of LOI, appropriate decision will be taken by the competent authority for withdrawal of LOI, based on the reply given by the LOI holder for the show cause notice issued.

10. In the present case, the LOI dated 15.09.2021 issued in favour the petitioner was cancelled by the respondent corporation, vide impugned letter dated 06.01.2023, since the petitioner being the selected candidate failed to fulfil the terms and conditions stated in the LOI, by not remitting a sum of Rs.4,50,000/- towards Security Deposit and Rs.15,00,000/- towards Non-Refundable fixed fee within a period of 15 days from the date of receipt of NOC i.e., from 14.03.2022. A further perusal of the materials on record reveal that, prior to withdrawal of the LOI, the respondent issued show cause notice dated 28.04.2022 and has also sent subsequent reminders



W.P.No.14611 of 2023

to the show cause notice on 11.05.2022, 13.05.2022 and 16.06.2022 and finally cancelled the LOI, vide present impugned letter dated 06.01.2023, after a lapse of nearly nine (9) months from the date of receipt of NOC, which cannot be interfered with.

11. In view of the above, this Court is not inclined to interfere with the impugned letter of the respondent dated 06.01.2023, cancelling the Letter of Intent dated 15.09.2021 issued in favour of the petitioner, as the same is perfectly in terms of the guidelines.

12. For the reasons aforesaid, this Writ petition stands dismissed. No costs. Consequently, connected Miscellaneous petition is closed.

22.06.2023

skt

NC	: Yes/ No
Speaking Order	: Yes/ No
Index	: Yes/ No

To

8/10



W.P.No.14611 of 2023

Indian Oil Corporation Limited,
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M.DHANDAPANI, J.

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