



WEB COPY



W.P.No.34352 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2023

CORAM

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

W.P.No.34352 of 2018

and

WMP.No.39923 of 2018

E.Ilavarasi

...Petitioner

Vs.

1. The Senior Area Manager,
Indian Oil Corporation Limited,
8/1079, Avinashi Road, Coimbatore-641 018.

2. The Area Manager,
Indian Oil Corporation Limited,
8/1079, Avinash Road, Coimbatore-641 018.

3. R.Manju

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the proceedings under Ref:CBEAO/IMP 2013-14/DRP-3 dated 13.11.2018 passed by the 1st respondent and to quash the same in so far as the said proceedings passed by the 1st respondent is without jurisdiction and authority of law, unconstitutional and arbitrary and in total violation to the principles of natural justice and for a further direction to allot the LPG distributorship to the petitioner in strict compliance of the order passed by this Honble Court in W.A.No.2198/2018 dated 04.10.2018 and the compliance of the same by the petitioner.



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For Petitioner : Mr.S.Baskaran

For Respondents : Mr.Mohammed Fayaz Ali, for R1 & R2
: No Appearance, for R3

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus to call for the records in respect of the proceedings of the 1st respondent in Ref:CBEAO/IMP 2013-14/DRP-3 dated 13.11.2018, quash the same and for a consequential direction to allot the LPG distributorship to the petitioner.

2. The case of the petitioner is that the respondent Indian Oil Corporation Limited gave an advertisement dated 21.09.2013, inviting applications for LPG Distributorship within Dharmapuri and the petitioner also applied for the same and she got selected as the eligible candidate for LPG Distributorship, which was communicated to her by the 1st respondent vide letter dated 25.07.2016. While so, the 1st respondent, vide letter dated 20.10.2016, rejected the petitioner's candidature, as she had not offered a site within the Municipal limits as per the conditions. Challenging the same,



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the petitioner filed a Writ petition before this Court in W.P.No.40005/2016, however, the same was dismissed by this Court, vide order dated 23.07.2018 and subsequently filed an appeal in W.A.No.2198 of 2018 and the Hon'ble Division Bench of this Court, vide order dated 04.10.2018 observed that *the matter requires re-consideration at the hands of Indian Oil Corporation so far as the appellant/writ petitioner is concerned, independently, and a decision shall be taken forthwith, if her candidature is, otherwise, in order and such a decision shall be without prejudice to the rights of the third respondent*. Pursuant to the above said order, the present impugned order dated 13.11.2018 has been passed by the 1st respondent, rejecting the petitioner's claim. Challenging the same, the present Writ petition.

3. Learned counsel for the petitioner submitted that, despite the order of the Hon'ble Division Bench of this Court, the 1st respondent has mechanically passed the present impugned order, rejecting the petitioner's claim, which is not sustainable. Hence, he prayed for allowing this Writ petition.



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4. Per contra, learned counsel appearing for the official respondents submitted that, already the distributorship for notified location was granted in favour of the 3rd respondent, as the petitioner did not provide alternate site in the notified location within the time limit. Further, pursuant to the Letter of Intent ('LOI'), the 3rd respondent started work for establishing the LPG Distributorship for commencing the business. He further submitted that, if any Distributorship is going to be granted in future in the very same advertised location, the petitioner is entitled to participate in the selection process. However, for the present, the petitioner's request cannot be granted, since, it is not possible to grant two distributorship in respect of a particular location and there is no such provision available to grant the same. Hence, he prayed for dismissal of this Writ petition.

5. Heard learned counsel on either side and perused the materials available on record.

6. Admittedly, pursuant to the advertisement of the 1st & 2nd respondents dated 21.09.2013, inviting applications for LPG Distributorship



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within Dharmapuri, the petitioner as well as the third respondent applied for the same and the petitioner was declared as a successful candidate to get the LPG Distributionship. However, later, her candidature was rejected on the technicality that she had not offered a site within the Municipal limits as per the conditions. Challenging the same, the petitioner filed a Writ petition in W.P.No.40005 of 2018 and the same was dismissed, vide order dated 23.07.2018, aggrieved by which, the petitioner preferred Writ Appeal in W.A.No.2198 of 2018 and the Hon'ble Division Bench of this Court held as hereunder:

"

6. Having heard the learned counsel appearing for the parties and perused the materials available on record, we find that originally, the appellant/writ petitioner was declared as a successful candidate to get the LPG Distributionship, however, later, her candidature was rejected on the technicality that she had not offered a site within the Municipal limits as per the conditions. Be that as it may, it is the case of the appellant/writ petitioner, that she can very well offer an alternative site within the Municipal limits to fulfil the conditions for granting the LPG Distributionship. Similarly, it is the case of the respondent that they had already commenced the basic



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work for erecting the showroom. If that be so, the appellant may not have any grievance. However, we are of the view that the matter requires re-consideration at the hands of Indian Oil Corporation so far as the appellant/writ petitioner is concerned, independently, and a decision shall be taken forthwith, if her candidature is, otherwise, in order and such a decision shall be without prejudice to the rights of the third respondent."

7. Pursuant to the above order of this Court, the respondent Indian Oil Corporation passed the present impugned order dated 13.11.2018, rejecting the petitioner's claim on the ground that, *on account of failure to produce land for showroom in the advertised location, the private respondent was selected and her candidature was accepted on 31.10.2016, which is much prior to filing of the Writ petition and subsequent to the dismissal of the Writ petition in W.P.No.40005 of 2018, a Letter of Intent dated 31.07.2018 was issued to the private respondent and pursuant to the same, she started works for establishing LPG Distributorship. At this stage, the petitioner's representation cannot be considered, as it would cause serious prejudice to the private respondent.*



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8. Admittedly, there cannot be two Distributorship in the very same locality and without issuing proper notification, no distributorship can be granted in favour of the petitioner. Further, on a perusal of the impugned order, this Court is of the view that, the respondent has given proper reason for rejecting the petitioner's representation, since the Hon'ble Division Bench of this Court directed the respondent to take a decision without causing prejudice to the private respondent. Hence, this Court is not inclined to interfere with the Distributorship/Dealership granted in favour of the private respondent. However, liberty is granted to participate in the Distributorship process to be held in the future. Further, the respondent Indian Oil Corporation Limited shall give preference to the petitioner in the Distributorship process if any is going to be held in the said locality in future, **if there is any provision available for granting such preference.**

9. With the above observations and direction, this Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous petition is closed.

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skt

WEB COURT
Speaking Order : Yes/ No
Index : Yes/ No

To

The Tahsildar,
Avinasi Taluk,
Tiruppur District.

M.DHANDAPANI,J.

skt

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