



W.P.(MD).No.18066 of 2013

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 23.02.2023

PRONOUNCED ON : 27.04.2023

CORAM

THE HONOURABLE **MR.JUSTICE K.KUMARESH BABU**

W.P.(MD).No.18066 of 2013

and W.M.P(MD).Nos.1 & 2 of 2013

and W.M.P(MD).No.376 of 2019

P.Bama

... Petitioner

vs

1.The Chief Area Manager,
Indian Oil Corporation Limited, Indane Area Office,
No.2, Race Course Office, Chockikulam
Madurai — 625 002.

2. Senior Area Manager, Indane Area Office,
Indane Oil Corporation Limited,
No.2, Race Course Road, Chockikulam
Madurai — 625 002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 1st respondent herein in his proceedings Ref.No.MAO/780/13 dated 04.10. 2013, and the consequential notification published in Dhina Thanthi on 06.11.2013



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quash the same and further direct the respondents herein to issue letter of intent to the Petitioner for appointment of Distributorship under Rajiv Gandhi Gramin LPG Vitrak (RGG LV) for Assor/ Sivagnanpuam/ Villiseri/ Savelaperi Villages in Thoothukudi District.

For Petitioner : Mr. Rajnish Pathiyil
for Mr.D.Sivaraman

For Petitioner in W.M.P
(MD).No.3 7 6 of 2014 : Ms.Lakshmi Gopinathan

For Respondents : Mr.K.Muraleedharan
Standing Counsel

ORDER

This Writ Petition has been filed challenging the order made by the 1st respondent holding that the petitioner was ineligible for the Award of distributorship and the consequential paper publication calling for drawal of lots for the eligible candidates and for a consequential relief to direct the respondent to issue a letter of intent to the petitioner for appointment of distributorship under Rajiv Gandhi Gramin LPG Vitrak (RGGLV) Scheme.

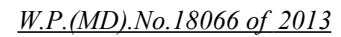
2.Heard Mr. Rajnish Pathiyil, for Mr. D.Sivaraman, learned counsel appearing for the petitioner and Mr.K.Muraleedharan, learned counsel appearing for the respondents



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3.Mr.Rajnish Pathiyil, learned counsel for the petitioner would submit that, 1st respondent had invited applications from the eligible candidates for the appointment of distributorship to distribute bottled liquified petroleum gas under Rajiv Gandhi Gramin LPG Vitrak (RGGLV) Scheme, for various places across Tamil Nadu. The petitioner had made an application for distributorship at Asoor/ Sivagnanapum/ Villiseri/ Savelaperi in Kovilpatti Taluk, Thoothukudi District under open category. He would submit that the petitioner had satisfied the basic eligibility conditions and had enclosed all necessary documents such as Statement of accounts of the petitioner and her brother to prove her financial capacity apart from auditor's certificates and Income Tax returns and letter from Pandian Grama Bank to extend loan facility and sale deed in respect of the land measuring an extent of 3 acres and 65 cents to prove ownership of the property. As per the guidelines, marks have been allotted for various eligible conditions. for financial capacity 50 marks is awarded, for the present income 10 marks is awarded, and for educational qualification 40 marks is awarded. He would further submit that based upon the document submitted by the petitioner, the candidates who score 80% or above would be entitled for participation in the draw. Based upon the



4.Countering his arguments, Mr. K. Muraleedharan, learned counsel



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appearing on behalf of the 1st and 2nd respondents would submit that the petitioner had submitted various documents to substantiate the persons who had obtained 80 marks out of the 100 marks based on the information given by the applicant in their application were eligible to be considered for the grant of the distributorship. Out of 100 marks, 15 marks were given for financial capacity, 10 marks for income, and 40 marks for their educational qualification. As regard the criteria for award of marks on financial capacity are:-

(a) Amount in Savings Bank Account as on date of application

(b) Free and unencumbered fixed deposits in schedule banks or any other resources which can be readily converted into required cash. 1 mark will be awarded on every unit of Rs.8000/- or more in multiples of 8,000 and ability to arrange loan.

(c) Bankers/ financial Institution letters to extend loan if required, for which 10 marks would be awarded

(d) Other assets as on the date of advertisement, 5 marks to be awarded based on the Government approved valuers report.



- (i) 3 marks for the value of 2,00,000/- to Rs.3,00,000/-
- (ii) 4 marks for value Rs.3,00,000/- to Rs.4,00,000/-
- (iii) 5 marks for above Rs.4,00,000/-

5. As per the advertisement, family unit has been defined. He would submit that as per the said definition, family unit of a married applicant shall consist of self, applicant's spouse, unmarried son/ daughters and family unit of an unmarried applicant shall consist of self, applicant's parents and applicant's unmarried brothers/ sisters.

6. In the present case, he would submit that the applicant had submitted her application and in the said application, she has a personal income of Rs.1,60,000/-. She had under the column 10.2 shown the Savings Bank Account of herself and that of her brother Venugopal. The amount in both the said accounts was Rs.2,53,318/-. Taking into account, the said amount and dividing it by units of 8,000 each, the petitioner was awarded 31 marks. Along with the application, the petitioner's brother had not filed an affidavit. The said affidavit came to be filed only during the verification, wherein, the brother of the petitioner had categorically admitted that he was married. When that being the admitted position, as per the criteria for awarding marks, the married brother's



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account cannot be taken into consideration, since, as per the definition of an unmarried applicant, only unmarried brothers/ sisters account, could be considered in favour of the applicant. He would also contest the claim of the petitioner's counsel as regard the non-awarding of marks for the amount standing in the name of the petitioner's brother. He would submit that the applicant in her application had not even mentioned about any assets whatsoever. Therefore, he would submit that the petitioner would not be entitled either for the marks for the amount standing in her married brother's account or would be entitled for the marks of the assets and hence, he would pray this Court to dismiss the Writ Petition.

7.Ms.Lakshmi Gopinathan, learned counsel appearing for the 3rd party in the impleading applicant would submit that the impleading applicant was also be found to be eligible. He would submit that in view of the interim order passed by this Court in this Writ Petition, his application has not been considered. He would also support the arguments made by the learned counsel appearing for the 1st and 2nd respondent and submit that when the petitioner is ineligible, the impleading petitioner being the only person available as of today, meeting all the eligibility criteria would have to be awarded the distributorship.



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8.1 have considered the rival submissions made by the learned counsel appearing on either side and perused the materials available on record before this Court.

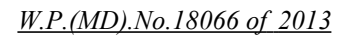
9.The petitioner had admittedly made an application for distributorship. The petitioner had made averments in her affidavit claiming that the rejection of her claim is wholly untenable. The petitioner had not produced the application submitted by her. On the contrary, the respondents, in their typed set had produced the application filed by the petitioner. Annexures to the application, which forms part of the typed set of papers filed along with the Writ Petition. The affidavit that was supposed to be filed by the brother of the petitioner, whose account she has disclosed in her favour to Clause 10.2 of the application had not filed an affidavit as given in Appendix-C. The said affidavit as claimed by 1st and 2nd respondents seems to have been filed only during the verification. Originally, based upon the application the petitioner was awarded 81 marks, taking into consideration of all the other criteria also and therefore, she was found to be eligible. But, however, during verification, the petitioner's brother was directed to file an affidavit. He had filed an



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affidavit indicating that he was married. Now the question is whether the amount shown against the name of the petitioner's brother, based upon which the petitioner has been awarded 81 marks is correct? As per the note in the application, family unit of an unmarried applicant shall consist of self, applicant's parents and applicant's unmarried brothers/ sisters for the purpose of the entire application. A reading of the said clause in categorical terms, would pre-suppose that an unmarried applicant cannot rely upon the married brothers/ sisters account, assets in seeking to fulfill the criteria. Hence, the respondents were right in deducting 6 marks which was awarded by taking into account the petitioner's brother's amount.

10. Coming to the next contention made by the learned counsel for the petitioner namely that even assuming that the respondents were right in deducting 6 marks, their failure to award 5 marks for the assets standing in the name of the petitioner would also render the impugned order invalid. In my view, it is also without any merits. The 1st respondent had produced the application filed by the petitioner, a perusal of the same would conclusively prove that the petitioner had not given any details in column 10.4, which relates to assets/ property of the family. Hence, when the petitioner had not indicated the assets standing in her name



13.Hence, the Writ Petition is dismissed. However, there shall be no



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order as to costs. Consequently, connected W.M.P.(MD) No.376 of 2019 is dismissed and W.M.P.(MD).Nos.1 & 2 of 2013 are closed.

27.04.2023

gba

Index/ Yes/No

Speaking order: Yes/No

Neutral citation: Yes/ No

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K.KUMARESH BABU,J.

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