



W.P.(MD) No.12507 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.06.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.12507 of 2020

and

W.M.P(MD)Nos.10684, 10685 and 12883 of 2020

J.Pratabh

.. Petitioner

Vs.

The Deputy General Manager,
(LPG-S) Indian Oil Corporation Limited,
Indane Area Office, No.2, Race Course Road,
Chockkikulam, Madurai-625 002.

.. Respondent

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the impugned order in Ref.No.IOC04113010418092017 dated 10.09.2020 on the file of the respondent and to quash the same and further directing the respondent to grant the Durgam Kshetriya Vitrak (DKV) distributorship to the petitioner for Sedapatti Village, Peraiyur Taluk, Madurai District.

For Petitioner : Mr.G.Prabhu Rajadurai
For Respondents : Mr.K.Muraleetharan



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ORDER

This writ petition is filed for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the impugned order in Ref.No.IOC04113010418092017, dated 10.09.2020 on the file of the respondent and to quash the same and further to direct the respondent to grant the Durgam Kshetriya Vitrak (DKV) distributorship to the petitioner for Sedapatti Village, Peraiyur Taluk, Madurai District.

2.Heard Mr.G.Prabhu Rajadurai, learned counsel appearing for the petitioner and Mr.K.Muraleetharan, learned counsel appearing for the respondent.

3.It is the case of the petitioner that he is a resident of Sedapatti Village, Peraiyur Taluk, Madurai District and he is a graduate in Commerce and also carrying on agricultural activities. Since there is no Indane Gas Agency in Sedapatti Village, the residents of the village are served through the agency situated in Usilampatti and Peraiyur.



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Therefore, the respondent had published an advertisement dated 20.08.2017 calling for applications from eligible persons for acting as distributors for LPG. The petitioner had submitted his application through online on 18.09.2017. The respondent is governed by the guidelines for awarding agency in the name of “Unified Guidelines for Selection of LPG distributor”.

4.The petitioner would submit that there are about 18 applications including himself and to the best of his knowledge, he alone was qualified to be appointed as a distributor. The petitioner would further submit that one of the criteria for qualifying the LPG distributorship is that the applicant should be either a owner or lessee of the land measuring a minimum extent of 15 x 6 meters(5 cents). The petitioner has submitted in his application that he was a lessee in respect of the land bearing Survey No.190/4A situated in Alligundam Village. He has also taken on lease another land measuring 21 cents in S.No.84/1D4C, as is evidenced by a lease deed, dated 19.09.2017. Out of 18 candidates, 4 candidates including himself were short listed for drawal of lots. On



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24.11.2017, the drawal of lots was held and one Gurumaran was selected.

The said Gurumaran was not a resident of Sedapatti Village. Hence, the petitioner has filed a writ petition in W.P(MD)No.22929 of 2017 before this Court. This Court, by order dated 27.02.2019 dismissed the writ petition stating that the same was premature as the qualification would be verified only after the drawal. Further, this Court directed the respondent to conduct field verification (FIC) simultaneously for all the four candidates. This order was challenged by the respondent in W.A(MD)No. 1288 of 2019. The said writ appeal was allowed and the said observation was set aside.

5. Thereafter, in the field verification, the said Gurumaran was found ineligible. After nearly two years ago, the second drawal was conducted on 20.02.2020 and the petitioner was selected. On the very same day, the petitioner has submitted his credentials and he was then informed that the land offered by him in Alikundam Village, was 4 kms away from Sedapatti and hence, he was directed to offer an alternative land. Therefore, the petitioner had produced the registered lease deed,



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dated 19.09.2017 in respect of an alternative land. At that point in time, the petitioner noticed that the area was wrongly mentioned as one cent ie., 0.00.5 ares, instead of 21 cents (0.08.5 acres). Therefore, a rectification deed came to be executed on 27.02.2020 and the same was submitted to the respondent. However, the respondent had passed the impugned order rejecting his candidature. As against which, the petitioner is before this Court.

6.Mr.G.Prabhu Rajadurai, learned counsel appearing for the petitioner would submit that subsequently the petitioner has purchased nearly 3 ½ acres of land. He would further submit that the other two candidates will not qualify as they did not belong to Sedapatti Village. He would further submit that the impugned order was wrong, inasmuch as the rectification deed is only a deed rectifying the mistake and the lessor himself has acknowledged the error and executed the rectification deed and therefore, the respondent ought not to have rejected the petitioner's candidature. He would further submit that in the event of the Court coming to a conclusion that the impugned order is correct, then the



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observation should be made that if the candidature of the other candidates are rejected, the respondent would thereafter consider the petitioner's application.

7.Mr.K.Muraleetharan, learned counsel appearing for the respondent would submit that the petitioner herein has come forward with contrary documents. In the first instance, he had shown the land which is not located in Sedapatti Village. Thereafter, he had produced a registered lease deed in respect of one cent of land, whereas the guidelines acknowledged that the applicant should have a minimum of 5 cents of land either as ownership or as lessee. On the date of the application, he made rectification in the lease deed by correcting the size of the land as 21 cents. After the date of selection, and before the drawal of lots it was the land measuring one cent that has been submitted and it is only after the completion of selection that the rectification deed has been executed. That apart, the alternative land which was offered during the field verification was registered on 30.05.2019 (3 acres of land purchased by the petitioner). He would also rely upon the Division



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Bench judgment of this Court in W.A.No.1277 of 2019. In the aforesaid judgment, the Division Bench had observed as follows:

“10.The legal principle culled out form the above decision is that the dates fixed in the brochure/guidelines were sacrosanct and producing a notarized lease deed instead of a registered lease deed, does not meet the eligibility criteria. This decision is required to be borne in mind to understand the importance of the various terms and conditions mentioned in the brochure/guidelines. The respondent has accepted the conditions and applied for grant of LPG Distributorship and he cannot risile from the conditions/stipulations contained therein. Undoubtedly, in the matter of award of contracts/dealerships/distributorships, the Court can examine as to whether there is any error in the decision-making process and cannot substitute the decision taken, unless it is established that the decision was vitiated on account of fraud, mis-statement or for any other mala fide reasons.”

8.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent.



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9.The application of the petitioner was rejected on the following two grounds.

(i)The original land offered was not situated in the locality.

(ii)When at the time of making online application, the petitioner has submitted in the application in respect of land measuring only one cent which is contrary to the guidelines, even according to the petitioner, prescribed an extent of 5 cents.

10.The petitioner thereafter attempted to rectify the error by filing a rectification deed nearly an year after his submission and also offering an alternative land which has been subsequently purchased. The petitioner attempted to put across the submission that the measurement giving in the registered lease deed dated 19.09.2017 was an oversight. However, a mere perusal of the registered document would indicate that the extent has been rightly given as one cent, since the details of the corrections that have been shown at the foot of the deed would clearly show the extent as 0.00.5 ares, this correction is made not only one place, but also in two places. Further, a mere perusal of the four boundaries in



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the original lease deed and the rectification deed would also clearly show that the property in question in these two documents are different. Further, the petitioner has submitted his application after fully the comprehending terms of the contract/ guidelines. Having done so, the petitioner cannot now contend that he should be given an opportunity as the mistake in the documentation regarding measurement was an oversight. The petitioner is fully aware of the guidelines, which is clearly evidenced from the writ petition that he has filed against Corporation in W.P.(MD)No.22929 of 2017.

10.In these circumstances, this Court does not find any reason to interfere with the order of the respondent, who seeks to appoint their agent. Hence, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

12.06.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
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P.T.ASHA, J.

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To
The Deputy General Manager,
(LPG-S) Indian Oil Corporation Limited,
Indane Area Office, No.2, Race Course Road,
Chockkikulam, Madurai-625 002.

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