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W.P.(MD)No.7718 OF 2014

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.07.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.7718 & 17956 of 2014 AND

M.P.(MD)Nos.1 to 3 of 2014

W.P.(MD)No.7718 of 2014

S.Pushparani

... Petitioner

Vs.

The Chief Divisional Retail Sales Manager,
Indian Oil Corporation Ltd.,
Madurai-2.

... Respondent

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned letter passed by the respondent in MDUDO:RO202:LO1-R/Karaikudi dated 17.03.2014 and quash the same as illegal and unconstitutional and consequently direct the respondent to confirm their letter of intent (LOI) in 2011/TN002213/TN/000333/4103/00076 dated 14.03.2012 taking into account of the petitioner's representation dated 31.03.2014.

For Petitioner : Mr.V.Perumal

For Respondent : Mr.K.Muraleedharan

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W.P.(MD)No.7718 OF 2014

W.P.(MD)No.17956 of 2014

S.Pushparani

... Petitioner

Vs.

1. The Chief Divisional Retail Sales Manager,
Indian Oil Corporation Ltd.,
Chennai Divisional Office,
No.500, Anna Salai, Teynampet,
Chennai – 18.

2. The Chief Divisional Retail Sales Manager,
Indian Oil Corporation Ltd.,
Madurai.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the impugned paper notification dated 17.10.2014 calling for appointment of retail outlet dealers insofar as Serial No.365 Karaikudi New Bus Stand to Railway Station Road, Karaikudi by the 1st respondent corporation and quash the same .

For Petitioner : Mr.V.Perumal

For R-2 : Mr.K.Muraleedharan

For R-1 : No appearance.

* * *

**COMMON ORDER**

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Heard the learned counsel appearing for the writ petitioner and the learned Standing counsel appearing for the respondents.

2. The respondent Corporation has issued notification on 11.11.2011 calling for application from eligible candidates for setting up a retail outlet in Karaikudi Town. The petitioner was called for interview on 23.12.2011. The petitioner was the sole applicant. Letter of intent was issued in favour of the petitioner on 14.03.2012. The District Revenue Officer recommended for issuance of NOC. At this stage, field verification was done and the respondents took the stand that the land offered by the petitioner did not meet their requirements. Hence, the impugned order was passed cancelling LOI. This was done only after putting the petitioner on notice. Thereafter, the impugned notification was issued calling for fresh applications. Challenging the proceedings; a) cancellation of LOI and b) issuance of fresh notification, these writ petitions came to be filed.



3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavits filed in support of the writ petitions and called upon this Court to grant relief as prayed for.

4. The respondents have filed common counter affidavit and the learned Standing counsel took me through its contents. The learned Standing counsel was at pains to emphasise the fact that when the petitioner offered her land in the first instance, she knew that it did not meet the parameters prescribed by the Corporation and therefore, this Court ought not to show any indulgence in favour of such a person. He prays for dismissal of the writ petitions.

5. I carefully considered the rival contentions and went through the materials on record.

6. It is true that in the notification dated 11.11.2011, the dimensions of the land required for setting up an retail outlet was 20 meters x 20 meters. However, the land offered by the petitioner turned out to have the following dimensions:-



“ 20 meters x 19.1 meters”

No doubt, there is a marginal shortfall. Clause 3 of the guidelines issued by the Corporation reads as follows:-

“3.0 Firming up of Plot Size:

a. The plot size for new ROs will be determined by the requirement for different class of markets. The preferred plot size would be as follows:-

For Retail Outlet in cities/towns- 30 mtr.(Frontage)x30mtr.(Depth)

For Retail Outlets in NH/SH - 45 mtr. (Frontage) x 45 mtr. (Depth)

For KSKs - 20 mtr.(Frontage) x 20 mtr.(Depth)

b. While deciding the plot size in city / towns, plots of smaller size can also be considered provided the desired facilities can be set up in the same in line with the rules of the Dept. of Explosives and other statutory guidelines. As regards the ROs abutting National Highways, the plot should conform to the MORTH guidelines dated 17.10.2003. However, in case the local statutory authorities prescribe higher plot size than mentioned above or based on the business requirement, the plot size would be firmed up in line with the same. Therefore, based on the above, the plot size would be firmed up by the Divisional Office In-charge for procurement.”



7. The petitioner's case could have been considered under the aforesaid guidelines. But in the case on hand, I do not want to rest my order based on the said clause. The respondents themselves in their notification dated 17.10.2014 reduced their requirement from 20 meters x 20 meters to 18 meters x 20 meters. Since the respondents themselves have scaled down their requirement, the petitioner can very well be given the said benefit. The petitioner was the sole applicant and the Letter Of Intent was also issued in her favour. Instead of carrying out fresh exercise, the process initiated earlier can be taken to its logical conclusion.

8. In this view of the matter, impugned letter dated 17.03.2014 as well as the impugned notification dated 17.10.2014 insofar as it concerns the petitioner are set aside. These writ petitions stand allowed. No costs. Consequently, connected miscellaneous petitions are closed.

24.07.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

1. The Chief Divisional Retail Sales Manager,
Indian Oil Corporation Ltd.,
Chennai Divisional Office,
No.500, Anna Salai, Teynampet,
Chennai – 18.
2. The Chief Divisional Retail Sales Manager,
Indian Oil Corporation Ltd.,
Madurai.



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W.P.(MD)No.7718 OF 2014

G.R.SWAMINATHAN,J.

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