



WA.No.1139 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2024

CORAM:

**THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR JUSTICE K.KUMARESH BABU**

W.A.No.1139 of 2022

B.Thirukumaran

... Appellant

vs.

1.Bharat Petroleum Corporation Ltd.,
Trichy Retail Territory,
Represented by its Territory Manager (Retail),
1st Floor, Raj Towers,
Near Kalaignar Arivalayam,
Karur Bye Pass Road,
Trichy-620 002.

2.Veronica Ezhil

.. Respondents

PRAYER: Writ Appeal filed under under Clause 15 of the Letters Patent against the order dated 03.03.2022 made in W.P.No.4763 of 2022.

For Appellant : Mr.R.Saravanan,

JUDGMENT



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[Order of the Court was made by *D.KRISHNAKUMAR, J.*]

This Intra-Court appeal has been preferred against the order of the Writ Court dated 03.03.2022 made in W.P.No.4763 of 2022, filed for declaration declaring that the action of the first respondent in selecting the second respondent having lands only at Illupur Village as Dealer for Retail Outlet (Petrol Pump) for the location - Sankarapandan at Nagapattinam District as arbitrary, illegal and being contrary to the notification dated 25.11.2018 and also for a direction to the first respondent to redo the selection of dealers for regular and rural retail outlet in respect of the above location and permit the appellant to participate in selection and to consider the candidature of the appellant in accordance with law on merits.

2. The first respondent Corporation has issued a notification dated 25.11.2018 inviting applications for setting up of retail outlet at Sankaranpandal in Nagapattinam District and in pursuant to the said notification, the appellant/writ petitioner has submitted the application, however, the first respondent has selected the second respondent as dealer for the aforesaid location. The allegation of the appellant is that he is also having lands at Illupur Village,



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and one of the suitability condition stipulated for selection of dealership is the same location or area and since he was under the impression that his lands is not located in the notified area, he has not applied for the selection of dealership of the retail outlet. Subsequently, he came to know that the second respondent was awarded dealership by the first respondent and therefore, he preferred a complaint dated 09.12.2021, as per Clause 18 of the guidelines issued by the notification advertisement. The complaint of the appellant/petitioner came to be rejected on 20.12.2021 on the ground that the complaint has not been submitted within a period of 30 days. The writ petition has been filed with a prayer for declaration declaring the award of dealership to the second respondent for retail outlet, as illegal. The Writ Court has dismissed the writ petition holding that the appellant has not challenged the rejection order passed by the respondent Corporation.

3. Heard the learned counsel appearing for the appellant and perused the materials available on record.

4. The allegation of the appellant is that he is having suitable lands at



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Illupur village, but on going through the advertisement issued by the respondent Corporation, he was under the impression that his lands is outside the notified area and therefore, he has not submitted the application for the selection of dealership for retail outlet. It is an admitted fact that the appellant is aware of the aforesaid notification/advertisement issued by the appellant, he has not submitted the application as per the advertisement, however he came to know that the first respondent Corporation has awarded dealership to the second respondent and thereafter, he made a complaint by invoking Clause 18 of the guidelines issued by the respondent. The said complaint was rejected on the ground that it was not filed within 30 days.

5. This Court is of the *prima facie* view that the appellant/writ petitioner has not challenged the order of rejection passed against him, but he sought for a declaration, declaring the award of dealership in favour of the second respondent as illegal. On this ground, the writ petition cannot be entertained and besides that, the appellant himself merely stated that he is having lands at Illupur village which cannot be considered for applying for selection of the dealership. If at all, the



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appellant is aggrieved, he should have clarified with the respondent Corporation with regard to the location of his land or challenged the notification/advertisement issued by the first respondent. Further he has not furnished any details about the nature of his land, at what distance it is located from Sankaranpandal and there is no satisfactory explanation offered by the appellant. He has simply filed the writ petition stating that he has not applied for the dealership because his lands is situated only at Illupur Village. The reason stated by the appellant cannot be accepted and the writ petition itself is not maintainable.

6. The appellant neither challenged the notification issued by the first respondent nor challenged the order of rejection passed on his complaint. The Writ Court has rightly dismissed the writ petition as not maintainable and this Court finds no reason to interfere with the order of the Writ Court.

D.KRISHNAKUMAR, J.
and
K.KUMARESH BABU, J.



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7. In the light of the reasons assigned above, the Writ Appeal stands dismissed. No costs.

(D.K.K., J.) (K.B., J.)
24.06.2024

Intex : Yes/No
Internet : Yes/No
Jvm

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