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W.P.No.14511 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on: 01.08.2024

Pronounced on : 14.10.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.14511 of 2022
and
W.M.P.No.13714 of 2022

K.K.Sathish Kumar

.. Petitioner

VS

- 1.The Executive Director (Retail),
Hindustan Petroleum Corporation Ltd.,
Hindustan Bhavani,
No.8, Shoorji Vallabhadas Marg,
Ballard Estate,
Post Box No.155,
Mumbai – 400 001.
- 2.The General Manager,
Retail – South Zone,
Hindustan Petroleum Corporation Ltd.,
Thalamuthu Nataraja Building 4th Floor,
No.8, Gandhi Irvin Road,
Egmore, Chennai – 600 008.
- 3.The Chief Manager,
Hindustan Petroleum Corporation Ltd.,
Coimbatore Regional Office
No.18/3, H.P.House,
Big Bazaar Street,
Coimbatore – 641 001.
- 4.The Sales Manager (Retail),
Erode Sales Area,
Hindustan Petroleum Corporation Ltd.,
Coimbatore Regional Office,
No.18/3, H.P.House,
Big Bazaar Street,
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W.P.No.14511 of 2022

5.D.Parimaladevi,
Proprietor,
M/s.Lakshmi Priya Agencies,
a Retail Outlet Dealer for HPCL,
Thalavaipettai,
Erode District.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records relating to the impugned order in Ref.No. CBERO/MVR/RET dated 22.12.2020 passed by 3rd respondent, quash the same and consequently direct the respondents 1 to 4 to terminate the Retail Outlet Dealership issued to the 5th respondent for her act of playing fraud in getting the dealership and take necessary penal action, by considering the petitioner's representation dated 10.08.2020 and pass further or other orders as this Court deem it fit and proper in the circumstances of the case and thus render justice.

For Petitioner : Mr.S.Shrish
for Mr.N.Manoharan

For Respondents : Mr.Mohammed Fayaz Ali
for R1 to R4
Mr.S.Doraisamy for R5

ORDER

The petitioner has instituted this writ petition on 06.06.2022 challenging an order passed on 22.12.2020 (impugned order). The impugned order has been passed by the Hindustan Petroleum Corporation Limited (HPCL) rejecting the petitioner's complaint levelling allegations as against R5 of impropriety in making an application for dealership for a petrol pump.

2. R5 had been awarded a Retail Outlet Dealership for a petrol pump at Thalavaipettai, Erode District (pump / petrol pump). R5 had



W.P.No.14511 of 2022

applied under Open Category on 15.12.2010 and pursuant to an interview conducted by the Selection Committee on 21.12.2011, had been selected for the dealership. She has, since then, been running the petrol pump in the name and style of 'Lakshmi Priya Agencies' at Bavani – Sathy Main Road, Thalavaipettai, Erode.

3. Mr.S.Shrish, learned counsel, for Mr.N.Manokaran, learned counsel, who appears for the petitioner, confirms that the petitioner was not an applicant for the dealership of the stated petrol pump. However, he had come to know that there were certain discrepancies in the credentials of R5 and false information furnished to HPCL.

4. According to him, the application of R5 ought to have been rejected on the ground of the falsity of information furnished therein. One of the terms and conditions in the application is to the effect that the applicant was barred from making an application, if employed at the relevant point in time. Reference is made to Clause 18 of the Dealership Agreement. Then again, Clause 19.2 of the Brochure for Selection of Dealership, stipulates that furnishing of false information would be fatal to the consideration of the application itself.

5. According to the petitioner, R5 was employed as a teaching faculty / Assistant Professor in Vellalar College for Women (Autonomous), Thindal, Erode District (college), from 04.12.2006 onwards and had resigned only on 31.07.2020. In this connection, petitioner would rely upon the website of the college as well as the data provided by the college as uploaded in the National Institutional Ranking Framework (NIRF -



W.P.No.14511 of 2022

2021) website. However, she had concealed this fact when applying for the subject dealership.

6. Petitioner would also draw attention to her income particulars as furnished in the income-tax returns to substantiate her employment. In addition, petitioner would allege that the husband of R5 was implicated in several criminal complaints which also, according to him, stands against petitioner's credentials for selection. Hence a complaint came to be filed by him on 10.08.2020. Upon consideration of the allegations therein, HPCL has rejected the complaint.

7. Mr.Mohammed Fayaz Ali, learned counsel, appearing for HPCL would submit that detailed investigation had been carried out on the allegations of R5. Though they state that notice had been given to the petitioner on 23.09.2020 for an online hearing and the petitioner had not appeared, the petitioner would deny this. In the larger scheme of things, this point would not, in the view of the Court, be of much relevance.

8. On the allegation in regard to the employment of R5, HPCL has found that R5 was employed with the college between 2006 and 2008 and had resigned in May, 2008. Her salary was also only for this period. Her engagement with the college during 2006 – 2008 was on account of the fact that she was an alumnus and an executive member of the college committee. Only her expenses had been reimbursed by the college.

9. As regards the fact that name of R5 figured in the college website long after 2008, a letter had been given by the college confirming that there had been an error and that the error had subsequently been



W.P.No.14511 of 2022

rectified by removing the name of R5 for the period after she had resigned.

10. R5 had also produced an experience certificate of one Sri Kannimar Agency, which the petitioner had alleged was forged. In the course of the investigation, the proprietor of Sri Kannimar Agency, one S.Sathyamoorthi, had been enquired with and he had confirmed that R5 had worked in his agency as Manager and Supervisor for more than two years. He had submitted an affidavit on 07.09.2020 confirming the aforesaid position. HPCL had eschewed the complaints made as against the husband of R5, as being irrelevant to the matter. According to petitioner, the enquiry and investigation into his complaint had not been done in an appropriate manner and the conclusions arrived at by HPCL were also incorrect. Hence this writ petition.

11. I have heard Mr.S.Shrish, learned counsel for Mr.N.Manokaran, learned counsel for petitioner, Mr.S.Doraisamy, learned counsel for R5 as well as Mr.Mohammed Fayaz Ali, who appears for HPCL and considered their rival contentions carefully.

12. I am of the view that this writ petition is not liable to be entertained for several reasons. The facts in question are not in dispute. It is an admitted position that the petitioner has not participated in the process for dealership of the subject petrol pump. An objection has been raised to the maintainability of writ petition on this score and both HPCL and R5 would argue that the petitioner has thus no locus standi to have moved the present writ petition.



W.P.No.14511 of 2022

13. While I agree that the petitioner not having participated in the selection process cannot maintain a writ petition praying for removal of R5, I cannot close my eyes to the integrity of the investigation on the complaint preferred by the petitioner. I am conscious that this is not a public interest litigation. However, the investigation carried out into the complaints levelled, in my considered view, do not clear R5 in toto of the allegations levelled against her. I agree that the complaints made against the husband of R5 would have no bearing on the award of dealership to her and the conclusions of HPCL in the impugned order to this effect are correct. I cannot say the same, however with regard to the conclusions arrived at on the other two points.

14. As regards the employment of R5 in Vellalar College, I am unconvinced that the correction of the tenure of R5 in the college website can be relied upon. The data provided by college as reflected in the website of the NIRF, 2021 is more reliable. This is a grid / framework maintained by the Ministry of Education, Government of India, which reflects the information provided by various colleges in regard to the faculty employed by them. The details have been provided by the petitioner between pages 252 and 271 of the writ compilation in relation to academic years from 2013 – 2014 to 2018 – 2019, and at page 261, I find the name of R5 at Sl.No.58. The details set out are Sl.No.58 – Name – Parimala Devi D, Age – 42, Designation – Assistant Professor, Gender – Female, Qualification – Ph.D, Experience in Months – 182, Is associated last year – Yes, Currently working with institution – No, Joining date –



W.P.No.14511 of 2022

04.12.2006, Leaving date – 31.07.2020, Association Type – Regular.

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15. This information would serve to authentically establish that the date of resignation of R5 from Vellalar College was 31.07.2020 and hence her application filed in 2010 with the undertaking that she was unemployed at that time is clearly incorrect in light of the information available on the framework establishing her tenure in the college between 2006 and 2020. The association with the college has been of nearly fifteen years and has been captured authentically by the Government website. This would also serve to establish the falsity of the communication from the college, perhaps at the instance of R5.

16. I am also inclined to non-suit the petitioner on the ground of delay and laches as the writ petition has been instituted nearly one and half years after the date of impugned order, for which no explanation has been provided. There are several allegations and counter allegations in regard to the political alignments of both the petitioner and R5 and other insinuations which have no bearing on the petrol pump dealership per se. This would only establish all-too-clearly that there is animosity between petitioner and R5, which perhaps led to institution of this writ petition. This Court is not inclined to aid or abet this position.

17. Having said so, in the impugned order, HPCL notices variations between the income particulars as furnished by R5 at the time of her application and the ITR copies that were supplied by petitioner. This cannot be brushed aside by them. As a public sector undertaking, it is incumbent upon HPCL to have looked into this aspect as well as the



W.P.No.14511 of 2022

particulars of R5's employment as reflected in the national framework, which they have not done.

18. For the reasons stated in the paragraphs supra, this writ petition is dismissed as the petitioner has not established his locus standi in any way whatsoever and no cause of action has been made out touching upon his interests. However, there is a direction to R1 to R4 to conduct enquiry afresh on the following aspects and review their decision in regard to the authenticity or otherwise of the application submitted by R5. As a consequence, if the authorities find that the application has been submitted with a false undertaking / particulars, all consequences shall follow. Let this exercise be completed within a period of three months from date of uploading of a copy of this order on the official website and a status report be filed with the Registry of this Court. Connected miscellaneous petition is closed. There shall be no order as to costs.

14.10.2024

Index:Yes
Neutral Citation:Yes
ssm

To

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W.P.No.14511 of 2022

DR. ANITA SUMANTH,J.

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W.P.No.14511 of 2022

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