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W.P.No.22565 of 2023 and W.M.P. No.29558 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.22565 of 2023 and W.M.P. No.29558 of 2024

Tamizh Priyan

... Petitioner

Vs.

Bharat Petroleum Corporation Limited,
represented by its Chairman and Managing Director,
Bharat Bhavan, 4 and 6 Currimbhoy Road,
Ballard Estate, Mumbai - 400 001.

(Previously R1, which was struck off from
party array and R2 & R3 are re-ranked
as R1 and R2 vide order dated 11.08.2023
made in W.P. No.22565 of 2023 by NSSJ)

1.Bharat Petroleum Corporation Limited,
represented by its Head (Retail-Southern Regional),
BPCL, Chennai - 600 040.

2.Bharat Petroleum Corporation Limited,
represented by its Territory Manager,
1st Floor, Raj Towers,
Near Kalaignar Arivalayam,
Karur Bye Pass Road,
Trichy - 620 002.

... Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents herein to commence the installation of facilities and to enable the petitioner to start the petrol bunk business at Survey No.167/4A, 2A Siruvadi Main Road, Siruvadi, Marakkanam Taluk, Villupuram District for running a New Retail Outlet of MS/HSD and award "Letter of appointment" as per the Letter of Intent dated 22.10.2021 awarded to the petitioner within a time frame to be stipulated by this Court.

For Petitioner : Mr.P.Kannan Kumar

For Respondents : Mr.V.Anantha Natarajan

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus directing the respondents herein to commence the installation of facilities and to enable the petitioner to start the petrol bunk business at Survey No.167/4A, 2A Siruvadi Main Road, Siruvadi, Marakkanam Taluk, Villupuram District for running a New Retail Outlet of MS/HSD and award a "Letter of appointment" as per the Letter of Intent dated 22.10.2021, awarded to the petitioner, within a time frame to be stipulated by this Court.



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2.The learned counsel appearing for the petitioner submitted that the petitioner is the owner of the property, situated in Survey No.167/4A, 2A Siruvadi Main Road, Siruvadi, Marakkanam Taluk, Villupuram District. The petitioner made an application dated 21.12.2018 seeking Retail Outlet Dealership with the respondents by paying necessary charges. Consequent to the above application, a letter of intent dated 22.10.2021 was issued by the respondents to the petitioner agreeing to develop the retail outlet at the above location with appropriate structures, storage tanks and pumps, including additional facilities.

3.The learned counsel appearing for the petitioner would further submit that on the strength of the recommendation letter issued by the Sub Collector, Tindivanam to the District Revenue Officer dated 16.09.2022, the District Revenue Officer has also issued "No Objection Certificate" vide certificate dated 12.10.2022. In spite of observing and strictly adhering to all the terms and conditions laid down by the respondents for issuance of Letter of Appointment and construction of facilities at the above location, the respondents have not made any such facilities at the above site earmarked for running New Retail Outlet of MS/HSD and have not issued a Letter of



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appointment to the petitioner. Aggrieved by the same, the present writ petition has been filed by the petitioner seeking the above prayer.

4.The learned counsel for the petitioner further submitted that though a Letter of intent dated 22.10.2021 has already been issued in favour of the petitioner to enable him to run the petrol bunk, till date, the respondents have not come forward to issue the Letter of appointment in favour of the petitioner. Instead of issuing the Letter of appointment, the respondents have issued a Show Cause Notice dated 13.09.2023 stating that the petitioner has not complied with the requirement of the DSG 2018 for the selection of dealership and therefore, the issuance of Show Cause Notice by the respondents is illegal. Therefore, the learned counsel for the petitioner prays for necessary direction to the respondents for issuance of the Letter of Appointment in favour of the petitioner within a time frame.

5.The learned Standing Counsel appearing for the respondents submitted that at the time of land evaluation, which is done as per the selection process enumerated in the dealer selection guidelines, a village



road was shown in front of the offered site in the sketch. Paragraphs 13 and

14 of the counter affidavit reads as follows:

'13. With respect to averments in paragraph 9, I respectfully submit that at the time of land evaluation which is done as per the selection process enumerated in the dealer selection guidelines, a village road was shown in front of the offered site in the sketch. However later it came to the notice of the Corporation that the same is not a road and the information submitted at the time of application was found to be incorrect. Therefore in view of the same, show cause notice dated 13.09.2023 was issued to the petitioner seeking explanation regarding the same. However, the petitioner did not submit his reply to the said show cause notice.

14. With respect of averments in paragraph, I respectfully submit that the petitioner herein had furnished incorrect information at the time of making application for dealership. I respectfully submit that the Brochure for Selection of Dealers under Clause 4(I) provides as follows:

(I) It should be responsibility of the applicant to ensure that as on date of application

(i) Offered land is of required dimension and abutting road boundary, after leaving right of way line of the road.

I submit that as on the date of application, the site offered by



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the petitioner was not abutting road and hence further process could not be carried out by the respondent.

As mentioned in the brochure for selection of dealers, the site offered by the applicant has to be as per the requirements laid down therein and on the date of submitting application, the land offered by the petitioner was not abutting any road. Therefore Letter of appointment has not been issued to the petitioner.

I respectfully submit that site abutting road is a sine qua non for a retail outlet which enables easy ingress and egress of vehicles and accordingly mentioned in the brochure also.

Upon the said fact coming to the knowledge of the Corporation, the petitioner was issued a show cause notice to seek explanation regarding the correct state of affairs however no reply was received to the said show cause notice.'

6.Reiterating the averments made in the above counter affidavit filed by the second respondent, the learned Standing Counsel for the respondents submitted that since the petitioner has not given any reply to the show cause notice issued by the respondents till date, the respondents were not in a position to issue the above letter of appointment. Therefore, this Court may pass necessary orders in this regard.



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WEB COPY 7. Heard the arguments advanced on either side and perused the materials available on record.

8. Admittedly, the petitioner is the owner of the property, situated in Survey No.167/4A, 2A Siruvadi Main Road, Siruvadi, Marakkanam Taluk, Villupuram District and he has also made an application dated 21.12.2018 seeking Retail Outlet Dealership with the respondents and also paid a sum of Rs.3,000/- vide online payment dated 21.12.2018. Subsequent to the submission of the above online application, the petitioner also procured the documents and certificates, which were the pre-requisite for appointment of retail outlet dealership by the respondents. Despite the same, a Show Cause Notice dated 13.09.2023 has been issued to the petitioner stating that the site offered by the petitioner was not abutting road and hence, further process could not be carried out by the respondents and that the facts provided on the date of land evaluation are found to be wrong. As the Letter of Intent dated 22.10.2021 has also been issued in favour of the petitioner to enable him to run the petrol bunk after thorough verification by the respondents and No Objection Certificates have also been issued by



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concerned authorities in favour of the petitioner for running the petrol bunk, this Court finds that the issuance of Show Cause Notice dated 13.09.2023 is illegal and therefore, the same is unsustainable.

9.In view of the above, this Court permits the petitioner to complete the physical construction of the petrol bunk at Survey No.167/4A, 2A Siruvadi Main Road, Siruvadi, Marakkanam Taluk, Villupuram District for running a New Retail Outlet of MS/HSD within a period of four weeks from the date of receipt of a copy of this order. After completion of the physical construction by the petitioner, the respondents are directed to issue a "Letter of appointment" in favour of the petitioner, as per the Letter of Intent dated 22.10.2021 awarded to him within a period of two weeks thereafter. The writ petition is disposed of accordingly. Consequently, connected W.M.P. is closed. No costs.

25.09.2024

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No



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M.DHANDAPANI,J.

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