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W.P.No.24229 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25/10/2024

C O R A M

THE HONOURABLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.24229 of 2023

S.Arun Dheenadhayalan

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Petitioner

Vs

1. The District Revenue Officer
District Collectorate Office
Krishnagiri 635 115
2. Indian Oil Corporation Limited
Salem Divisional Office
No.234 I Floor NH – 7
Salem – Bangalore Bypass Road
Kondalampatti
Salem 636 010.
3. The Project Director
National Highways Authority of India
(Ministry of Road Transport and Highways)
PIV No.26 I Floor, VGP Nagar West
Vazhudhareddy Post
Villupuram.
4. The Regional Officer
National Highways Authority of India
Ministry of Road Transport & Highways
Government of India.



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5. The Revenue Divisional Officer
G6F*+PQP Bangalore Road
Veerappa Nagar, Krishnagiri
Tamil Nadu 635 001.

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Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus to call for the records of the second respondent in Proceedings Ref.No.SLMDO/SRMP2018/MATHUR dated 7/8/2023 and quash the same as illegal, unconstitutional and without jurisdiction and further direct the first respondent to issue No Objection Certificate to enable the petitioner to establish a MS/HSD retail outlet in S.No.4/1 admeasuring 900 sq.mt Batrahalli Village, Pochampalli Taluk, Krishnagiri District.

For Petitioner

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Mr.V.Raghavachari
Sr.Counsel
for Ms.V.Srimathi

For Respondents

...

Mr.LSM.Hasan Fizal
Additional Government Pleader
for R.1 and 5

Mr.AR.L.Sundaresan
ASG
assisted by
Mr.Mohd Fayaz Ali
for R.2



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ORDER

This Writ petition has been filed to quash the order of the second respondent dated 7/8/2023 passed in Proceedings Ref.No.SLMDO/SRMP2018/MATHUR and consequently, direct the first respondent to issue No Objection Certificate to enable the petitioner to establish a MS/HSD retail outlet in S.No.4/1 admeasuring 900 sq.mt Batrahalli Village, Pochampalli Taluk, Krishnagiri District.

2. The facts of the case in brief are as follows:-

The second respondent intended to appoint retail outlet dealers, thereby, a newspaper advertisement was published on 25/11/2018. The petitioner made an application on 23/12/2018 for Mathur location, notified as Sr.1380. On 8/5/2000, second respondent issued a Letter of Intent approving the offer of Retail Outlet Dealership in Mathur location. The petitioner had made the site available by virtue of a registered lease deed, dated 21/12/2018, for a period of 29 years, executed in his favour. After confirmation from the petitioner, second respondent had applied for grant of



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No Objection Certificate, under Rule 144 of the Petroleum Rules, 2002.

The Rules prescribe within a maximum period of three months, first respondent ought to grant or refuse No Objection Certificate.

3. On 26/8/2021, first respondent issued a letter to the third respondent, calling upon the NHAI to issue its clearance. The petitioner made an application before the third respondent through second respondent between September 2021 and October 2021. A disgruntled person had lodged a complaint against issuance of NOC on 30/9/2021 and approached this Court in W.P.No.27372 of 2021 to forbear the respondents from issuing NOC and the matter was disposed of in the admission stage itself.

4. Fourth respondent had once again issued a communication dated 25/4/2022 calling upon the third respondent to confirm the proposal. At all points, the petitioner was informed that NOC would be issued as the report of the fourth respondent was imminent. All of a sudden, on 7/8/2023, second respondent has cancelled the Letter of Intent, on the ground the petitioner has not complied with the terms of LOI even after a lapse of 3 years. Now, the second respondent has proposed to conduct a fresh



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allotment on 16/8.2023 at 10.00 a.m., for the very same location. Being aggrieved, the petitioner has come forward with the instant writ petition praying for the relief as stated therein.

5. The Divisional Retail Sales Head, Indian Oil Corporation Ltd, Divisional Office, Salem, has filed a counter on behalf of the second respondent stating that show cause notice dated 7/7/2023 was issued to the petitioner, calling upon the petitioner to show cause within 21 days as to why the Letter of Intent should not be withdrawn. As the petitioner failed to respond, second respondent was constrained to withdraw the Letter of Intent, vide letter dated 7/8/2023. Now, the petitioner has challenged the letter dated 7/8/2023, withdrawing the Letter of Intent dated 8/5/2020.

6. Heard Mr.V.Raghavachari, Sr.Counsel for the petitioner, Mr.LSM.Hasan Fizal, Additional Government Pleader for the respondents 1 to R.1 and 5 and Mr.AR.L.Sundaresan, learned Additional Solicitor General for the second respondent.

7. The learned counsel appearing for the petitioner submitted that



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after investing huge sums, second respondent cannot withdraw the Letter of Intent to suit the private needs of people. The second respondent notified the very site in relation to which the second respondent had earlier issued the Letter of Intent, for fresh allotment of dealership by draw of lots and this was to take place at 10.00 a.m., on 16/8/2023.

8. The learned Additional Solicitor General appearing for the second respondent submitted that the petitioner having failed to perform in terms of the Letter of Intent, cannot shift the blame on others and cannot state extraneous reasons which were not part of the order cancelling the Letter of Intent. As per the selection guidelines, upon cancellation of Letter of Intent, redraw of lots has to be held amongst the remaining applicants and therefore, a redraw of lots was scheduled on 16/8/2023.

9. Perused the materials available on record.

10. Even on a bare perusal of the photo, compound wall was raised by the petitioner using pre-fabricated material. The petitioner had failed to develop the land offered by him as per the conditions enshrined in the



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Selection Guidelines as well as in the Letter of Intent dated 8/5/2020. Letter of Intent was withdrawn due to the failure on the part of the petitioner to carry out the developmental works such as levelling the land upto the ground level and erecting a compound wall. The said requirement has nothing to do with obtaining the statutory NOC under Rule 144 of the Petroleum Rules, 2002. In such a view of the matter, not only the applicants who have participated in the selection process are incurring huge amount but also the respondent, as it is unable to establish the retail outlet in the advertised location and therefore, the writ petition filed by the petitioner is unsustainable and deserves dismissal.

11. In the result, writ petition is dismissed. No costs.

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mvs.

Index: Yes/No
NCC: Yes/ No



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M.DHANDAPANI, J

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