



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 02.07.2024**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P.(MD)No.9954 of 2024 AND**  
**W.M.P.(MD)Nos.9008 & 9009 of 2024**

J.Sivaranjani

... Petitioner

Vs.

1. M/s.Bharath Petroleum Corporation Ltd.,  
Rep. by its Executive Director(Retail),  
12/E&F, Maker Towers,  
Cuffe Parade, Post Box 19949,  
Mumbai.

2. The Deputy General Manager(DGM),  
Marketing(Retail),  
Tamil Nadu and Puducherry,  
Bharath Petroleum Corporation Ltd.,  
Southern Regional Office,  
1, Renganathan Gardens,  
Off.11<sup>th</sup> Main Road, PB 1212 & 1213,  
Anna Nagar, Chennai – 600 040.

3. The Head of Territory Office,  
Bharath Petroleum Corporation Ltd.,  
Tamil Nadu Retail, BG, Goodshed Road,  
Thachanallur, Tirunelveli – 627 358.

... Respondents

**Prayer:** Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the impugned letter of the third respondent dated 14.02.2024 and quash the same with a consequential direction directing the respondents herein to allot the retail outlet for the



location of “Sundara Nachiyarpuram” to Kunnakulam on either side of MDR 698 Virudhunagar District under Group 1 category to the petitioner.

For Petitioner : Mrs.A.Lakshmi,  
for M/s.Polax Legal Solutions.

For Respondents : Mr.Natesh Raja,  
Standing counsel.  
\* \* \*

### **ORDER**

Heard both sides.

2. The petitioner is a woman. She belongs to SC category. She applied in response to the dealership notification issued by BPCL. The petitioner's application came to be rejected only for the reason that on the date of application, the ownership of land was not in her name. Challenging the aforesaid stand of the respondents, this writ petition came to be filed.

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



4. The respondents filed counter affidavit and the learned

Standing counsel took me through its contents.

5. My attention is drawn to the following condition set out in the brochure:-

**“4. Eligibility criteria for individual applicants**

**– Proprietorship / Partnership**

**Common Eligibility Criteria for all categories applying as individual (as on date of application unless mentioned otherwise)**

...

**(vi) Land (Applicable to all categories):**

...

a) The land should be available with the applicant as on the date of application and should have minimum lease of 19 years and 11 months (as advertised by respective oil company) from the date or after the date of advertisement but not later than the date of application. ...”

In this case, the notification was issued on 28.06.2023. The petitioner submitted her application on 26.09.2023. The petitioner had a lease deed for twenty years in her favour. The lease deed was executed on 26.09.2023. But the lease was to come into force with effect from 21.10.2023. Though the rectification deed was subsequently executed,



according to the respondents, admittedly, the petitioner did not have any lease hold interest in the petition mentioned land on the date when she submitted the application. According to the respondents, brochure conditions will have to be strictly complied with and no reliance is permissible. The respondents called upon this Court to dismiss the writ petition.

6. I carefully considered the rival contentions and went through the material records.

7. BPCL issued notification dated 28.06.2023 calling for applications from the eligible persons for allotment of dealership to set up a retail outlet dealership. The location was on either side of Sundara Nachiyarpuram - Kunnakulam road. The petitioner applied under Group I category on self-declaration basis. Interestingly, the petitioner was the sole applicant. There was no rival claim. The petitioner's application was accepted and she was also selected. Thereafter, field verification was conducted to check the petitioner's credentials. It was then noted that on the date of application, the petitioner did not have any interest in the land offered by her.



8. As per the terms and conditions set out in the brochure for

selection of dealers for regular and rural retail outlets, group I applicant must have suitable piece of land in the advertised location by way of ownership / long term lease for a period of minimum 19 years 11 months. In this case, according to the petitioner, she has leasehold interest for twenty years and six months in the land offered by her. A copy of the lease deed dated 26.09.2023 has been enclosed in the typed set of papers. The land owners, namely Selvaraj and Ganesan have executed the lease deed in favour of the petitioner. It is true that as per the lease deed, the commencement of lease was with effect from 21.10.2023. The payment of lease rent fixed has also been mentioned as commencing from 01.10.2023. The stand of the petitioner is that this is a purely inadvertent typing error. That is why, the rectification deed was subsequently executed. On realising the mistake, on 10.01.2024 the rectification deed was executed between the parties. It was also duly registered as document No.117 of 2024. In the rectification deed, it has been mentioned that the date 21.10.2023 shall be read as 26.09.2023 which was the date of application. According to the brochure as well as the impugned communication, the land should be available with the applicant as on the date of application. In this case, the parties have



clarified that the mistake was crept in due to typographical error. The law provides for rectification of instruments. There is consensus between the executants. The rectification made vide document dated 10.01.2024 must be deemed to relate back to 26.09.2024. The doctrine of relation back will definitely apply to the case on hand. Once I come to the conclusion that the rectification deed relates back, the natural corollary is that the petitioner should be taken as having leasehold interest in the offered land as on the date of application.

9. In this view of the matter, the impugned communication is set aside. The third respondent is directed to allot the retail outlet for the petition mentioned location in favour of the petitioner under group I category. This shall be done as expeditiously as possible. This writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

**02.07.2024**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes/ No  
PMU



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**To:**

The Head of Territory Office,  
Bharath Petroleum Corporation Ltd.,  
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WEB COPY



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**G.R.SWAMINATHAN,J.**

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