



W.P(MD)No.16032 of 2016

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.01.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.P(MD)No.16032 of 2016

Karuppasamy

... Petitioner

VS.

1.The Joint Chief Controller of Explosives,
A & D Wing, Block 1 – 8,
II Floor,
Shasthri Bhavan,
No.26, Haddour Road,
Nungampakkam,
Chennai – 600 006.

2.The Chairman,
VO Chidambaranar Port Trust,
Tuticorin.

3.The District Collector,
Tuticorin District,
Tuticorin.

4.The Chief Engineer,
Civil Engineering Department,
Estate Management Division,
VO Chidambaranar Port Trust,
Tuticorin.

... Respondents



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WEB PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the first respondent to consider the representation of the petitioner dated 12.08.2016.

For Petitioner : Mr.V.Anandakumar
For Respondent No.1 : Mr.S.Jeyasingh
Senior Panel Counsel
For Respondents Nos.2 to 4 : Mr.A.Arivuchandran

ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

Prayer in this Writ Petition is to direct the first respondent to consider the representation of the petitioner dated 12.08.2016.

2.According to the petitioner, Tuticorin Town is the District Head Quarter of Tuticorin District and the main revenue of Tuticorin is from fishing harbour and the port trust. While so, the third respondent has planned to allot port land admeasuring 23,750 sqm for providing lorry parking terminal with retail outlet (petrol bunk) and other facilities adjacent to Indian Oil Corporation terminal (IOC) and opposite to VOC statute and thereby issued a tender cum E-auction

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notice dated 06.11.2015 through the fourth respondent/Chief Engineer VOC Port Trust. The place selected by the respondents 3 and 4 for installing a retail outlet (petrol bunk) is such a hazardous place and it is not a suitable place for installing a petrol bunk. Seeking to cancel the permission and also to uninstall the retail outlet from the current place, the petitioner made a representation, dated 12.08.2016 to the respondents. Since the said representation has not been considered, the present Writ Petition has been filed.

3. When the matter was taken up for hearing today, learned Senior Panel Counsel appearing for the first respondent produced a copy of the proceedings issued by the first respondent in No.E(C)-57/37/2015-EST/D.2004, dated 22.06.2016 and the same is extracted hereunder:

'2) Allotment of Port land admeasuring 23,750 Sqm. w.e.f 01.06.2016 for providing Lorry Parking Terminal at Port land with retail outlet (Petrol Bunk) and other facilities adjacent to I.O.C. Terminal and opposite to V.O.C. Statue at the e-auctioned rate of Rs.16,62,50,000/- on upfront basis for a period of 29 years lease expired on 31.05.2045 on as is



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where is basis as approved by the VOCPT Board in its meeting held on 31.05.2016.

3) Accordingly, Port land admeasuring 23,750 Sqm. for providing Lorry Parking Terminal at Port land with retail outlet (Petrol Bunk) and other facilities adjacent to I.O.C. Terminal and opposite to V.O.C. Statue in RS No. 790/PART as shown in the enclosed drawing is here by allotted to you on long term lease basis on "Upfront Premium" along with applicable Service tax for a period of 29 Years subject to the following payment terms and conditions.

4) Since M/s. Hindustan Petroleum Corporation Ltd., has paid the Upfront premium amount of Rs. 16,62,50,000/- plus Service Tax and Swatch Bharath Cess totaling to Rs.17,37,31,250/-, Security Deposit amount of Rs. 1,14,65,520/- and one year lease rent of Rs.23,750/- as per the letter of indent vide reference (2) cited above, M/s. Hindustan Petroleum Corporation Ltd., shall pay the lease rent of Rs.1/- per Sqm/Annum before commencement of every lease year as per clause 11.2(d) Land Policy Guidelines 2014.

5) M/s. Hindustan Petroleum Corporation Ltd., shall not enter into JV with any Private sector company during the currency of the lease without prior approval of the Port.



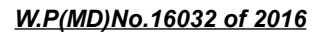
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6) *M/s. Hindustan Petroleum Corporation Ltd., shall obtain all statutory approvals required in this regard from time to time. V.O. Chidambaranar Port Trust shall not be responsible for any loss / damages etc, occurring. If permission or approval of the above authorities or any other authority including Ministry of Shipping, Government of India are not granted / belatedly granted. VOCPT may facilitate such permission to the extent possible.*

7) *M/s. Hindustan Petroleum Corporation Ltd., shall confirm and be bound by all the statutory rules, Petroleum Rules 1976, Labour laws, Security Regulations of Port as per ISPS Port Regulations, and bye-laws regulating the construction, maintenance, occupation and possession of building, health, sanitation and drainage and those regulations of safety, anti-pollution control etc., prescribed from time to time under the provisions of any law being in force and shall obtain clearance from the concerned competent authorities wherever required. For all safety aspects M/s. Hindustan Petroleum Corporation Ltd., is fully responsible.*

8) *M/s. Hindustan Petroleum Corporation Ltd., shall utilize the leased area only for the purpose for which it has been allotted. In case, the Lessee fails to do so, the lease shall be liable for termination.*



15) M/s. Hindustan Petroleum Corporation Ltd., has to abide by the rules and regulations of the V.O. Chidambaranar Port Trust regarding Land Policy Guidelines issued from time to time.



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16) You have to confirm within 14 days from the date of issue of this allotment order by V.O. Chidambaranar Port Trust.

17) You are requested to contact the Executive Engineer / Estate Management Division of this Port for joint surveys to take over the land and execute necessary lease agreement.

The receipt of this order may be acknowledged.'

4.The first respondent has filed a counter-affidavit wherein it is stated that M/s.Hindustan Petroleum Corporation Limited has got all the necessary certificates such as certificate of safety under Rule 130 of Petroleum Rules, 2002 and certificate of tank testing under Rule 126 of the abovesaid rules from the competent authority. Further, it is stated that the petitioner's representation dated 12.08.2016 has been considered in detail and a reply has also been sent to the petitioner on 20.10.2016. According to the first respondent, M/s.Hindustan Petroleum Corporation Limited has also obtained 'No Objection Certificate' from the authority concerned as per the Rules. Therefore, the first respondent seeks for dismissal of the Writ Petition.



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5.Considering the above statement made by the first respondent, since the first respondent has passed an order dated 22.06.2016 and a reply has also been sent to the petitioner on 20.10.2016 by informing that the Hindustan Petroleum Corporation Limited has complied with all the conditions as per the Rules and the said order has also not been challenged, we are not inclined to issue any directions to the first respondent as sought for by the petitioner.

6.Accordingly, the Writ Petition is dismissed. No costs.

[D.K.K.,J.] [R.V.,J.]
23.01.2024

NCC : Yes / No
Index : Yes / No
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To

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D. KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

ps

ORDER MADE IN
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DATED : 23.01.2024

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