



W.P.(MD)No.23212 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.23212 of 2016 and
WMP(MD) Nos.16651 of 2016, 13909 of 2023 &
1394 of 2024

S.Iniya

... Petitioner

Vs

Indian Oil Corporation,
Marketing Division,
Triveni Second floor,
B-35, Shastri Road,
Thillai Nagar,
Trichy – 620 018.
Rep by its Senior Area Manager

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus, calling for the records of the respondent herein bearing No.TRAO/IMP/TNDIVA/35, dated 19.10.2016 and quash the same and direct the respondent herein to accept the registered lease deed dated 11.11.2016 in respect of show



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room and grant the LPG distributorship in favour of the petitioner for Thindivanam.

For Petitioner : Mrs.A.L.Gandhimathi
For Respondent : Mr.K.Muraleedharan

ORDER

The respondent Corporation has invited application for grant of LPG Distributorship in Tindivanam by a notification, dated 21.09.2013. One of the conditions in the notification is that the applicants who have applied must possess a land in that particular locality on their own or they must have a registered lease agreement for the land for a period of 15 years. The petitioner has applied for the same and she was also selected as a dealer on draw on 29.06.2014. The petitioner was directed to pay a sum of Rs.2,50,000/- towards Security Deposit and a sum of Rs.20,000/- towards caution deposit and the petitioner has also paid the amount as directed by the respondent. Thereafter, by the order impugned in this writ petition, the petitioner's



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allotment was cancelled on the ground that this petitioner is not having the required registered lease agreement for the land, which has been offered by the petitioner. Challenging the same, the petitioner has filed this writ petition in the year 2016.

2.The learned counsel appearing for the petitioner by referring the proceedings of the respondent Corporation, dated 19.10.2016 states that the respondent Corporation after scrutiny has suggested this petitioner to get the lease agreement to be registered within a period of seven days. However, on the same day, they have cancelled the allotment. The learned counsel has also relied on a communication, dated 02.06.2016 issued by the respondent Corporation and submits that while dealing with the issue in respect of allotment of LPG Distributorship to another dealer at Panipat, wherein, the respondent has intimated that in case, if the persons allotted with the LPG Distributorship have either sold the land or cancelled the lease



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deed, an opportunity should be provided to the selected candidates to offer alternative land and the same should be accepted, even after the date of application. The learned counsel further submits that as per the communication, dated 02.06.2016, the petitioner is entitled to produce the registered lease deed within a stipulated time, as such, the petitioner is having the registered lease deed for the land offered by her.

3.The learned counsel appearing for the respondent submits that if the petitioner is not having the required land at the time of application, the petitioner ought not to have applied for the same. Without the required eligibility criteria, the petitioner has applied for Distributorship and thereafter claims that she is entitled for the relief. The learned counsel has relied on the conditions as stipulated in the application in Column (vii) and the same is extracted as under:-

- vii. Should own as on the last date of submission of application as specified in the advertisement or corrigendum (if any):
a plot of land of minimum dimensions 25m x 30 m(within 15



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km from municipal/town/village limits of the location offered in the same State) for construction of LPG Godown for storage of 8000 kg of LPG in cylinders. The plot of land for construction of godown not meeting the minimum dimensions of 25m x 30 m will not be considered.

Or

a ready LPG cylinder storage godown (within 15 km from municipal/town/village limits of the location offered in the same state) of 8000 kg capacity.

In case there are any state specific requirements/norms applicable for construction of the LPG Godown, then the same will be applicable for the respective regular Distributorship locations and revised minimum dimensions of plot of land will be required as specified in the Advertisement of that respective state.

The plot of land or ready LPG cylinder storage godown should be freely accessible through all weather motorable approach road (public road or private road connecting road connecting to the public road). In case of private road connecting to the



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public road, the same should belong to the applicant/member of family unit (as per the multiple dealership/distributorship norm of eligibility criteria) as per the ownership criteria defined below. In case of ownership/co-ownership by family member(s) in respect of such private road, consent letter from respective family member(s) will be required.

The land should also be plain, in one contiguous plot, free from live overhead power transmission or telephone lines. Canals/Drainage/Nallahs should not be passing through the plot. The land for construction of LPG godown should also meet the norms of various statutory bodies such as PWD/Highway authorities/Town and Country Planning Department etc.,

In case an applicant has more than one suitable plot for construction of godown for storage of minimum 8000 kgs of LPG in cylinders or ready LPG cylinder storage godown as on the last date of submission of application as specified in the advertisement or corrigendum (if any), the details of the same can also be provided in the application.

(viii) Own a suitable shop of minimum size 3 metres by 4.5



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metre in dimension or a plot of land for construction of showroom of minimum size three metres by 4.5 metre as on the last date for submission of application as specified in the advertisement of corrigendum (if any) at the advertised location or locality mentioned in the advertisement. It should be easily accessible to general public through a suitable approach road.

4. Therefore, according to the respondent, this petitioner was not having the required land as on date of submission of application. After a field verification, a communication, dated 19.10.2016 has been sent to the petitioner to offer a suitable document for the land/show room as on date of application to match the above credentials within a period of seven days. The petitioner has offered a registered document by registering the earlier unregistered document, subsequent to this notification dated 19.10.2016 and therefore this petitioner cannot be considered that she is having the required land as on date of application. Even in the circular, dated 02.06.2016, it has been specifically mentioned that it is only a concession if suppose the



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land was selected, this concession has been provided to a person, who has cancelled the lease during the process of selection and it does not mean that this petitioner can be absolved since she is not having the required land at the time of application. The learned counsel has relied on the orders of this Court in WA(MD) No. 1193 of 2020, dated 19.04.2021, wherein, the Division Bench of this Court has held that if a person was not having the required land at the time of submission of application, he is not entitled to be appointed as a Distributorship and the relevant paragraph is as under:-

10. The decision of the Hon'ble Supreme Court in the case of Bharat Petroleum Corporation Ltd. & Ors. (BPCL) Vs.Swapnil Singh [Civil Appeal Nos. 6928-6929 of 2015 dated 08.09.2015, is extracted hereunder:

“ In the said case BPCL invited application for selection of regular LPG Distributorship by a brochure issued in April, 2011. Eligibility criterion for individual applicants is mentioned in paragraph 7(vi) of the brochure requires the applicant to own a



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plot of land of adequate size within 15 kilometres from the municipal/town/village limits of the location offered in the same State for construction of godown for storage of 8000 kg of LPG in cylinders or ready LPG cylinder storage godown as on the date of application. In paragraph 7 of the brochure, the term “own” was defined to mean having ownership title of the property or registered lease agreement for minimum fifteen years in the name of the applicant/family member as defined in multiple distributorship norm of eligibility criteria. The respondent therein submitted an application dated 13.09.2011 and in column no.9 of the application, the date of registration of the deed was mentioned as 13.09.2011. The application was processed and draw of lots were held in which, the respondent therein was found to be successful. Thereafter, in February, 2013, a field verification was done to verify as to whether the respondent therein actually was the owner of the land or a lease holder as required by the brochure. During the process of field verification, it came to the knowledge of BPCL that the respondent therein had



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entered into the lease agreement on 20.12.2012, for a period of fifteen years and the lease agreement was registered only on 21.12.2012, in other words, the respondent therein did not have a registered lease deed on the date of application, i.e., 13.09.2011. In view of the same, BPCL cancelled the allotment. Aggrieved over which, writ petition was filed before the Calcutta High Court which was dismissed by the learned Single Bench, as against which, the respondent therein filed appeal before the Division Bench which allowed the appeal. Challenging the said judgment, BPCL filed appeal before the Hon'ble Supreme Court which was allowed by order dated 08.09.2015 and the operative portion of the order reads as follows:- "We have gone through the records of the case along with the assistance of learned counsel for the parties and we find that the brochure read with the application form is absolutely clear in the sense that the applicant must be the owner of the specified area of land or must have a registered lease deed of the specified area of land on the date of application. The admitted position (which



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is also clear from the counter affidavit filed by the respondent in this Court) is that on 13th September, 2011 when the application for allotment was made, the respondent was neither the owner of any land or had any registered sale deed/lease deed in her name. In fact, the lease deed came into existence only on 20th December, 2012 and that was registered on 21st December, 2012. clearly, on the date of the application, the respondent was not eligible in terms of the brochure and the application form. The Calcutta High court has proceeded on the basis of a notarized lease agreement which appears to have been produced by the respondent before the High court. A photocopy of the notarized lease agreement has been shown to us and that document is dated 13th September, 2011. Learned counsel for the respondent has relied upon this document to contend that the respondent was eligible as on 13th September, 2011 in terms of the notarized lease agreement. We are unable to accept this contention of learned counsel for the respondent. The brochure and the application form clearly require the applicant to have a



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registered lease deed in her name. What is shown to us is a notarized document and admittedly this document, even though it may have been in existence, was formalised into a lease agreement only on 20th December, 2012 and that was registered on 21st December, 2012. the notarized document, therefore, does not advance the case of the respondent any further. Therefore, it is quite clear that the respondent was not eligible on the date of application, i.e., 13th September, 2011. Under the circumstances, we allow these appeals and set aside the order passed by the Division Bench of the Calcutta High Court.” The decision of the Apex Court is applied to the facts of this case.

5.This Court considered the rival submissions made and also perused the materials placed on record.

6.The petitioner has applied for LPG Distributorship in Tindivanam. The application stipulates specific conditions in column



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(vii) of the application. The applicant, who is having a registered lease deed as on the date of application, he/she is eligible to participate in the bid. This petitioner, admittedly applied with an unregistered lease deed and she was selected in the draw. After the field verification, the respondent found that this petitioner neither own the required land nor having the registered lease deed. Therefore, the petitioner was directed to produce the document for any other alternative land as required as per the condition on the date of application, for which, the petitioner has submitted the registered lease deed dated 11.11.2016, which was earlier submitted by the petitioner as unregistered. The fact remains that the petitioner is not having the required land at the time of application and therefore, this Court is not inclined to entertain this writ petition, in view of the decision rendered by the Division Bench of this Court in WA(MD) No.1193 of 2020, dated 19.04.2024.



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7. Accordingly, this writ petition is dismissed. No costs.

Consequently, connected Miscellaneous petitions are closed.

14.03.2024

NCC : Yes / No.

Index : Yes / No.

Internet: Yes / No.

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To

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B.PUGALENDHI, J.

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