



W.P.No.2244 of 2023

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DATED : 06.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.2244 of 2023
and
WMP.Nos.2323 & 2324 of 2023

Kiruba Beaula

... Petitioner

Vs.

1.Bharat Petroleum Corporation Limited
Represented by its Territory Manager
Chennai LPG Territory
J1-J6, SIPCOT Industrial Complex, Gummidpoondi
Thiruvallur District 601 201.

2.R.Vinithkumar

3.K.Indira

[R2 and R3 are impleaded as per order
dated 06.02.2025 in W.M.P.Nos.4323 &
4325/2023 in W.P.No.2244 of 2023]

....Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, to
issue a Writ of Certiorarified Mandamus calling for the records pertaining to



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the respondent issuance of the notification dated 28.12.2022 and quash the same in so far as location Redhills under category OBC (GP) as violative of Clause 6 of the selection guidelines and direct the respondent to consider the representation dated 09.01.2023 and issue a fresh notification for the location Redhills under the OBC category without the subcategory in accordance with the selection guidelines and pass such further order or orders as this Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.S.Elambharathi

For Respondent-1 : Mr.O.S.Karthikeyan

For Respondents-2 & 3 : Ms.Vinithra Srinivasan

ORDER

This Writ Petition is filed with the prayer of Certiorarified Mandamus, calling for the records pertaining to the issuance of the notification, dated 28.12.2022 by the first respondent and quash the same insofar as the location Redhills under the category OBC (GP) as violative of Clause 6 of the selection guidelines and direct the first respondent to consider the representation dated 09.01.2023 and issue a fresh notification for the location Redhills under the OBC category without the subcategory in



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accordance with the selection guidelines.

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2. The brief factual background, in which, the writ petition arises is that the writ petitioner as well as the newly impleaded private respondents are prospective applicants for LPG distribution under the first respondent. Earlier, a notification was originally issued under the category OBC (GP) and by an order dated 12.09.2015, the successful candidate was thereafter declared as ineligible. Challenging the said order, the said Candidate, namely, T.Chandrasekaran, had filed W.P.No.37699 of 2015. This Court, after considering the case of the parties, upheld the decision of the first respondent in declaring the said candidate as ineligible and it is relevant to extract paragraph 11 and 12 of the said the order, which read as follows:

“ 11. In view of the above discussion, the irresistible conclusion that can be arrived at by this Court is that the location of showroom does not fall within the requirements of the notification and the second respondent was perfectly right in rejection the application for distributorship submitted by he petitioner. This Court does not find any merits in the Writ Petition.

12. In the result, this Writ Petition is dismissed and there shall be a direction to the respondent Corporation to immediately take steps to call for applications for granting



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LPG distributorship in the Redhills location. No costs. Consequently, connected Miscellaneous Petitions are closed.”

Thereafter, the present notification is issued. Aggrieved by the same, the petitioner has filed the present Writ Petition. It is the case of the petitioner that the first respondent has issued Rules regarding advertisements to various facilities in the form known as Brochures for Unified Guidelines for selection of LPG distributorship.

3. According to the petitioner, as per Regulation No.4, the outlets are reserved to various categories, which include other backward class category also. Within the other backward class category, there is further reservation for various sub categories viz., “GP”, “PH”, “CC” and “Women”. There is a 200 point roster that is maintained by the first respondent organization and therefore, even while the LPG distributorship falls within the OBC category, the same will be advertised in respect of the concerned subcategory. The further rule relating to the de-categorization is contained in Clause 6 of the guidelines. It is relevant to extract the entire Clause 6, which reads as follows:



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“6.De- Categorization

In case, for a location under reserved category, there is no applicant found eligible, de-categorization of the location will be done following the norms as under:

a. For reserved sub-category locations “GP” (Defence Personnel/Central Armed Paramilitary Forces (CAPF) / Ex-servicemen/Employees of Central / State Governments /Central /State Government PSU), “PH” and “CC (OSP/FF)” and Women, in case of 'Nil' response to the advertisement or no eligible candidate is found or no candidate qualifies or no selected candidate is able to commission the LPG Distributorship, then that location would be re-advertised in the respective category without sub-category i.e., locations will be advertised as only SC/ST, OBC or Open Category as applicable.

b. For the location advertised/re-advertised under “SC/ST” or 'OBC' category, if there is 'Nil' response or no eligible candidate is found or no candidate qualifies or no selected candidate is able to commission the LPG Distributorship, then that location would be re-advertised under 'Open' category.

c. However, it will be ensured that the reservation is maintained on overall basis by respective Oil Marketing Companies while de-categorization of the locations from earlier roster by converting corresponding number of LPG Distributorship locations under 'Open' category from the



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new roster to 'SC/ST' and 'OBC' category. In other words, shortfall in percentage SC/ST and OBC category will be made good in the future Marketing Plans so as to ensure the percentage for SC/ST of 22.5%, OBC of 27% and open of 50.5% are maintained.

d. With regard to reserved sub categories viz., “GP” , “PH”, “CC” or “Women” the reservation percentage will be maintained only at the time of initial categorization. In other words, once the category of such locations is changed after the first advertisement if no candidate applies or no eligible candidate is found or no candidate qualifies or no selected candidate is able to commission the LPG Distributorship, no adjustment in the roster would be made under the future marketing plans.”

4. As per the same, only in respect of Scheduled Caste category, there is a provision for carry forward. In respect of the other categories, especially, sub categories Clause 6A deals with the issue. It is stated that in case of sub categories where there is no response to the advertisement or no eligible candidate is found or no candidate qualifies or no selected candidate is able to commission the LPG distributorship, then the location would be re-advertised in the respective category without the subcategory, i.e., the locations will be advertised only as SC/ST, OBC or Open category as



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applicable and the sub-category need not be mentioned. Merely because this Court directed the respondent corporation to immediately take steps to call for application for granting distributorship in Red Hills location, that does not in any manner mean that the respondent can violate the rules relating to de-categorization.

5. The learned counsel appearing on behalf of the petitioner as well as the impleaded respondents would reiterate the same submissions.

6. Per contra, Mr.O.S.Karthikeyan, learned counsel appearing on behalf of the first Respondent Corporation would submit that the rule would be applicable in a normal case. Here when the earlier matter was the subject matter of the Writ Petition and this Court has given a direction to call for applications granting LPG distributorship, then they have to reissue the very same advertisement and Clause 6 de-categorization is not applicable.

7. I have considered the rival submissions made on either side and perused the material records of the case.



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8. The only question that is to be determined in the Writ Petition is that whether the respondents are bound to issue the second notification by following Clause 6A or not?

9. It is clear that under Clause 6A, if once an advertisement is issued for a particular sub category, which includes GP also, and in case of nil response (which is not the case here) or no eligible candidate is found or no candidate is qualified or no selected candidate is able to commission the LPG distributorship (which is the case here), then the advertisement is reissued, then it should be simply in the OBC category alone. If it is applied to the facts and circumstances of the case, though one T.Chandrasekaran, was originally sought to be selected after the selection process, he was found to be ineligible by the respondent corporation and therefore, this case would fall either under the category that no candidate qualifies or no selected candidate is able to commission the LPG distributorship. The relevant portion of the order of this Court was extracted supra. The same does not specifically say that they should advertise with the same sub-category. When the Court upheld the



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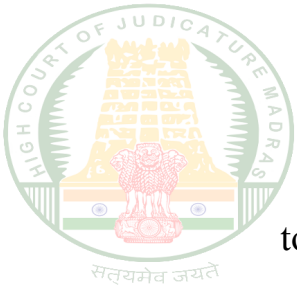
order of the Court, it has to be read as a whole and its import has to be understood. When the Court upheld the decision of the first respondent in making the candidate ineligible and upheld the right of the first respondent to go for calling for fresh applications and as a matter of fact, directed the first respondent to do the same expeditiously, then it can never be stated that it is directed that Clause 6A need not be followed.

10. In view thereof, the manner in which the first respondent read the earlier order is erroneous. Therefore, even though the petitioner had prayed for quashing the notification and redoing the entire process, the Writ Petition is disposed of on the following terms;

(i) The earlier applications and the responses that had come in pursuant to the earlier notification shall be kept as **valid applications;**

(ii) The first respondent shall issue a corrigendum to the original notification that the category as far as Redhills will be OBC category instead of OBC (GP category);

(iii) The corrigendum shall also give opportunities



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to various other candidates, who have not applied earlier as the earlier notification mentioned the specific category and therefore, a time limit can be mentioned to call for applications from all others who intend to apply;

(iv) Since the petitioner as well as the impleaded respondents have made applications, their applications will also be treated as OBC category and not under OBC (GP) category as they have mentioned that category only because their application would not be otherwise accepted by the online portal and therefore, their applications should be treated as OBC category and the respondent corporation shall complete the exercise of selecting the distributor in accordance with their procedure as expeditiously as possible.

(v) This order shall be confined only with reference to the Red Hills location alone.

(vi) No costs. Consequently, the connected miscellaneous petitions are closed.

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