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W.P.No.13583 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.13583 of 2023
and W.M.P.No.13262 of 2023

Murugannan Janarthanam

.. **Petitioner**

Vs.

1.Indian Oil Corporation Limited
Rep.by its Chief Executive Officer
G-9, Ali Yavar Jung Marg
Bandra (East), Mumbai – 400 051.

2.General Manager
Divisional Retail Sales Head
Indian Oil Corporation Limited
Chennai Divisional Office
No.500, Anna Salai, Teynampet
Chennai – 600 034.

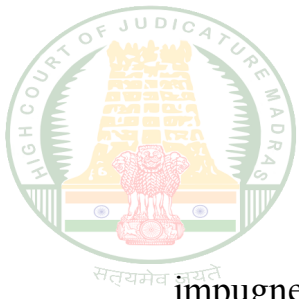
3.Kavitha R.Ranganathn

4.Sankar Annamalai

.. **Respondents**

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records relating to the

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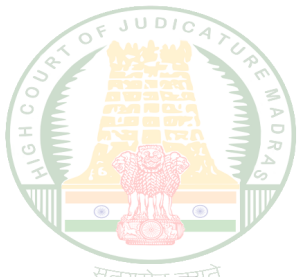
impugned order passed by the 2nd respondent vide order dated 28.03.2023 by upholding the cancellation of the petitioner's LOI in Ref.SRMP18/380/LOI cancellation dated 06.01.2021 of the 2nd respondent and quash the same as illegal and consequently direct the 2nd respondent to award the petroleum retail outlet dealership at Vandavasi – Mambattu (on SH-115) Tiruvannamalai District to the petitioner forthwith and pass such further or other order.

For the Petitioner : Mr.A.Suresh Sakthi Murugan

For the Respondents : Mr.A.R.L.Sundaresan, ASGI
Assisted by
Mr.V.Anantha Natarajan
for RR1 & 2
M/s.Chenthoori Pugazendhi
for R3
For R4-Notice served – No
appearance

ORDER

This Writ Petition is filed for a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 2nd respondent vide order dated 28.03.2023 upholding the cancellation of the petitioner's LOI in Ref.SRMP18/380/LOI Cancellation dated 06.01.2021 of the 2nd respondent, quash the same and consequently direct the 2nd respondent to award the petroleum retail outlet dealership at *Vandavasi – Mambattu* (on SH-115)

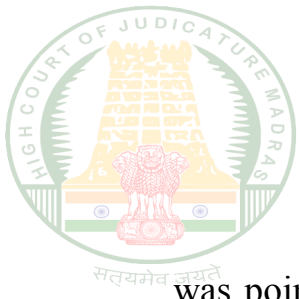


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Tiruvannamalai District, to the petitioner forthwith.

2. The factual background in which the Writ Petition arises is that the petitioner participated in the tender for selection of the licensees for a retail outlet located at the above mentioned place at *Mambattu*. The petitioner had duly submitted his application. The petitioner was selected being the highest bidder in Group-I. While, scrutinising the documents submitted by the petitioner in respect of the location of the outlet, it is seen that the petitioner had originally submitted a lease deed 24.12.2018, thereby getting the subject matter land on lease from *J.Rajarajan* and *J.Shanmugam*. It is seen that the said land originally belong to *Janakiraman* and apart from the said *J.Rajarajan* and *Shanmugam* there were four other legal heirs. By getting an affidavit from the four other legal heirs, originally the bid was submitted. On initial scrutiny, it was found that the petitioner's lease deed did not even contain a provision to sub-lease it to the respondent organisation and therefore, the petitioner was directed to produce a rectification deed. Accordingly, the first rectification deed was produced by the petitioner. Thereafter, again when the matter was taken up for scrutiny, since it



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was pointed out by the respondents that the petitioner can only lawfully claim 2/6th share, the petitioner again approached his lessors. The lessors in turn entered into a partition deed within the family members and the other legal heirs who have already given consent affidavit, have now relinquished their share under the partition deed and thereafter, a second rectification deed is executed in favour of the petitioner. The petitioner therefore, now trying to convince the authorities with the second rectification deed. The respondents initially considered the same, passed an order rejecting the claim.

3. The petitioner approached this Court by way of W.P.No.2557 of 2021 and this Court after considering the fact that no proper opportunity was given to the petitioner, directed the respondents to redo the entire exercise by giving full opportunity to the petitioner. Therefore, the matter was once again taken up by giving opportunity to the petitioner and now the impugned order dated 28.03.2023 is passed. The authority had taken into consideration that there is no provision for the petitioner to obtain a second rectification deed and present the document and on that score, held that the petitioner cannot be considered in

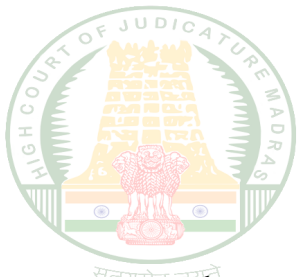


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Group – I, but if the turn comes, the petitioner will be considered along with Group – III as per the rules. Challenging the same, the present Writ Petition is filed.

4. *Mr.A.Suresh Sakthi Murugan*, the learned counsel appearing on behalf of the petitioner would contend that firstly, it can be seen that this is not a case where the petitioner does not meet the requirements. The only finding is that the requirement was met after the date of submission of the application and during the course of the scrutiny of the application. The rules relating to submission of alternate land clearly contained in Note No.3 of the Indian Oil Corporation Limited's Brochure, which clearly entitle even to offer an alternate land. If that being the position, filing a rectification deed in respect of the original land would not disentitle the petitioner. Further, taking this Court through the Note No.4 especially sub-clause (iv), the learned counsel would rely upon the same to contend that firstly even if it require the consent of the other co-owners in the said leased land, 21 days time ought to have been given to obtain the consent of the co-owners. Within the said time, the petitioner can get the consent of the



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other co-owners and present a proper ownership.

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5. In this regard, the said clause No.(iv) is extracted hereunder:-

“iv. In case after selection, if it is observed that the offered land is co-owned by multiple persons and the selected candidate did not provide consent of all the co-owners, the selected candidate would be given 21 days' time to get consent of all the co-owners for the offered land failing which the selection of the candidate will get rejected and the candidate will get opportunity along with Group 3 applicants.”

6. The learned counsel would rely upon the definition of the term 'Own' in

Note No.1, which reads as hereunder:-

“(a) ‘Own’ means having ownership by way of Registered Sale Deed, Registered Gift deed, etc. or title of the property or registered long lease (as per individual OMC norms) in the name of applicant / family member/s as defined in 4 (v)-e above.”

7. Therefore, relying upon the same, the learned counsel would submit that the Clause No.6 would also apply to the situation where the petitioner presents a lease hold land and therefore, would submit that the petitioner has complied with everything and has presented a land with proper title and dimensions. Therefore, the petitioner’s candidature should be considered only in Group – I and the impugned order is liable to be set aside.



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8. Per contra, *Mr.A.R.L.Sundaresan*, the learned Additional Solicitor General of India appearing on behalf of respondents 1 and 2 would submit that the petitioner is supposed to have all the qualifications and parameters with reference to the date of notification. The respondents cannot change the rules and give any extension of time to the petitioner alone. It is clear that as on the date of notification, the petitioner did not have title with reference to the said land which is presented. The immovable property lease cannot be given by the third parties by way of consent affidavit. Therefore, what is granted by way of the registered instrument alone can be taken, which was only 2/6th share. The subsequent partition deed and the second rectification deed cannot be taken into account as there is no provision under the rules. The Clause No.(iv) relied upon in Note 4 cannot apply to the facts situation as that of the instant case. He would also rely upon the Judgment of the Hon'ble Supreme Court of India in ***Bharath Petroleum Corporation Limited and Others Vs. Swapnil Singh***¹

9. The learned counsel appearing on behalf of the 3rd respondent while

¹ 2015 SCC OnLine SC 1922



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reiterating the submissions made by the official respondents would submit that it is now their turn to be considered and the petitioner cannot be given an extended opportunity in violation of the rules.

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

11. Firstly, the plain rule is that the petitioner should have the requisite qualifications and meet all the requirements as on the date of notification. The only question that is to be decided is that whether as per the provisions contained in Note 3 and Note 4, the petitioner can be given an opportunity wherein he has met the requirements belatedly at the time of scrutiny. As far as Note.3 is concerned, with reference to providing an alternative land, it entitles an applicant to provide an alternative land, if only the 1st land meets all the specifications laid down in the advertisement. Therefore, the reliance placed in respect of Note.3 will not come to the aid of the petitioner, as the very land which is originally provided by the petitioner is the only land in question and it



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did not meet the requirements laid down, is the contention of the respondent organisation.

12. Now, coming to the relevant clause under Note.4, it can be seen that in a case of ownership of the land, if the petitioner is one of the co-owner, he is deemed to be in joint possession of the entire land along with the co-owner. In that situation, the consent can be obtained from the other co-owners and the anomaly can be rectified. Even though the definition of 'own' also includes a lease, when the petitioner is only a lessee and has not obtained lease of the entire property from all the owners, but only 2/6th of it, the rectification in this case is not truly a rectification. Instead, it is the grant of lease for the remaining 4/6th share, as the title was only conferred through a subsequent partition deed. Therefore, I am of the opinion that Clause No. 4 in Note No. 4 cannot come to the aid of the petitioner.

13. As rightly contended by the learned Additional Solicitor General of India, these are matters in which the respondent organisation has to play in



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accordance with rules and a rule cannot be relaxed or changed in respect of one particular individual participant as that will hamper the rights of the other participants who have participated in the tender.

14. Accordingly, I am unable to accept the contentions of the learned counsel for the petitioner. Finding no merits this Writ Petition stands dismissed. It is needless to mention that as undertaken, the petitioner will be considered along with Group – III candidates, if the situation arises, as per the procedure. No costs. Consequently, the connected miscellaneous petition is closed.

07.02.2025

Neutral Citation : Yes
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To

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2.The General Manager
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D.BHARATHA CHAKRAVARTHY, J.

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