

(2002) 07 MAD CK 0041

In the Madras High Court

Case No : Writ Petition No's. 3658 and 12328 of 2001, WVMP. No. 293 of 2002 and WMP. No's. 5072 and 18035 of 2001

A. Azhar Begum, V. Shanthi, Mayiladuthurai

APPELLANT

Vs

Bharath Petroleum Corporation Ltd., Dealer Selection Board
and V. Shanthi, Kadambadi, Nagapattinam

RESPONDENT

Date of Decision : 25-07-2002

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2002) 07 MAD CK 0041

Hon'ble Judges : P.K. Misra, J

Bench : Single Bench

Advocate : Srinath Sridevan, in WP. No. 3658/2001, P. Govindarajan, in WP. No. 12328/2001, for the Appellant; M. Vaidyanathan, for R1 and K. Raman, for R2, for the Respondent

Final Decision : Dismissed

Judgement

P.K. Misra, J.—Heard the learned counsel appearing for the petitioners as well as the learned counsel appearing for the respondents.

2. Though the writ petitions were listed for considering the question of injunction and other interlocutory matters, by consent of counsel, the writ

petitions themselves are taken up for disposal.

3. The question relates to appointment of LPG Dealer for Mayiladuthurai Town in Nagapattinam District. The advertisement has been annexed as

Annex - I. In the advertisement, the particular dealership is at Sl.No.38. This area comes within the Revenue District of Nagapattinam. Column

No.5 of the advertisement indicates about the residents of the District who can apply for concerned location. In respect of Sl.No.38, relating to

Mayiladuthurai it has been indicated that the residents of Nagapattinam can

apply and the category is an open category.

4. The main contention of the petitioner is to the effect that as per condition relating to eligibility, only the residents of that particular locality should

be given preference. It has been contended in each of the writ petition that since the petitioner belongs to Mayiladuthurai, the petitioner should have

been selected. The condition No. D, relating to eligibility is as follows:

For those locations for which residents of more than one District can apply, other things being equal, preference will be given to the residents of

the Revenue District for which distributorship is advertised.

5. A perusal of the aforesaid eligibility condition makes it clear that only in those cases where residents of more Districts than one are eligible to

apply as per the advertisement, other things being equal, the candidate belonging to the particular Revenue District where the dealership is to be

located is to be given preference. In the present case, as already indicated, Column No.5 makes it clear that residents of Nagapattinam District are

eligible to apply. In other words, the eligibility is confined to residents of one District. It is not disputed that the person who has been selected is a

resident of that District, though there is some dispute as to whether she belong to Mayiladuthurai or other places. Even assuming that the person

belongs to other place, but not Mayiladuthurai town, since she belongs to Nagapattinam, there is no infraction of the eligibility criteria and principle

relating to preference as indicated in Clause-D of the eligibility criteria is inapplicable. The learned counsel for the petitioner also submitted that the

respondent No.2 who has selected the candidate has not filed counter to the contentions raised. There is no allegation of any malafide in the writ

petition and the main contention relates to question of eligibility in the light of condition No. D in the advertisement and the absence of counter is of

no consequence. More over, the entire file has been produced. No other points have been indicated by the petitioner so as to make the selection

vulnerable. It has to be remembered that while dealing with the writ petitions under Article 226 or 227 of the Constitution of India, the High Court

does not function as an appellate authority in taking decisions. Unless the order impugned is arbitrary or vitiated by errors of law apparent on the

face of the record, it is not the function of the High Court to go into the merits of the matter to find out if any other view is possible.

6. The learned counsel for the first respondent has submitted that the application form was purchased in the name of one Navaratna Organicals,

and it is not indicated that how the petitioner is concerned with the aforesaid organisation. However, in view of the fact that writ application has

been dismissed by considering other points, it is unnecessary to deal with the other points.

7. For the aforesaid reasons, the writ petitions are dismissed. Consequently, the interim orders stand disposed of. Consequently, WVMP.Nos.293

of 2002, WMP.Nos.18035 and 5072 of 2001 are closed. There shall be no order as to costs.