

**(2003) 03 MAD CK 0113**  
**In the Madras High Court**  
**Case No : W.A. No. 921 of 2003**

K. Vinodkumar

APPELLANT

Vs

S. Palanisamy and Bharat Petroleum Corporation Ltd.

RESPONDENT

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**Date of Decision :** 04-03-2003

**Acts Referred:**

**Citation :** (2003) 3 MLJ 173 : (2003) WritLR 476

**Hon'ble Judges :** B. Subhashan Reddy, C.J;K. Raviraja Pandian, J

**Bench :** Division Bench

**Advocate :** R. Subramanian, for the Appellant; R. Muthukumaraswamy, assisted by D. Krishnakumar, for the Respondent

**Final Decision :** Allowed

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## Judgement

This Judgment has been overruled by : K. Vinod Kumar Vs. S. Palanisamy and Others, AIR 2003 SC 3171 : (2004) 1 CTLJ 436 :

(2003) 8 JT 100 : (2003) 6 SCALE 753 : (2003) 10 SCC 681 : (2003) 2 UJ 1480 : (2004) AIRSCW 4260 : (2003) AIRSCW 4519 :

(2004) 2 Supreme 589 : (2003) 6 Supreme 471

K. Raviraja Pandian, J.—The appellant, in this appeal put in issue the order of the learned Judge dated 18.2.2003 made in W.P. No. 322 of

2001, wherein the selection list of the 3rd respondent dated 16.12.2000 for the distributor dealership of L.P.G for Palladam area has been set

aside and the authorities concerned were permitted to proceed with fresh selection. In the writ petition the first respondent, one of the applicants

for the grant of distributorship of L.P.G. for Palladam assailed the selection of list of the third respondent awarding more marks to the appellant

besides two others, the 4th and 5th respondents, as arbitrary and against clause

(v) of the notification by which applications were called for, for the grant of distributorship.

2. The learned Judge on facts and on interpretation of clause (v) of the notification found that the selection list made by the 3rd respondent lacked transparency in awarding marks in the sense that there was no decision or findings with respect to the basis for awarding marks and ultimately

found that the procedure followed by the 3rd respondent was contrary to the direction issued by this Court in the case of V. Chandran Vs. Oil

Selection Board, Tamil Nadu, Pondicherry and Andaman and Nicobar Islands, Madras and others, : and set aside the selection list. The appellant,

who was awarded with 253 marks in the selection list now filed the appeal.

3. The one and only point that has been argued by Mr. R. Subramanian, learned counsel for the appellant is that Clause (v) of the notification does

not require the applicants to give details about the land owned or possessed that would be given for distributorship at the time of submitting the

application and it would be enough if the selectee offered the land for distributorship within two months of selection. He further contended that the

appellant had not claimed any preference under clause (v) and had been selected on his own other merits. Hence the order made in W.P. No. 322

of 2001 has to be set aside by allowing this appeal. He placed reliance on the judgment of Calcutta High Court in Chinmoy Sarkar and etc. Vs.

Md. Shaniat Hossain and etc., :

4. We heard the arguments of the counsel for the appellant and carefully perused the materials, particularly clause (v) of the notification, on which

much argument was made. In order to appreciate the argument, we feel it is necessary to extract clause (v) of the notification which is in vernacular

runs as follows:-

(v) tpz;zg;gjhUU;/ tpepnahf tzpf chpikf;fhfj; juf;Toa epyj;jpd; KG tpgu";fisa[k; tpz;zg;gj;Jld; mspf;f ntz;Lk;. epyj;jpd; mikg;gplj;ij th;j;jff;

nfhzj;jpypUe;J fUj;jpy;bfbh;L/ epychpikia ghuj; bgl;nuhypak; fhh;g;gnu#Df;Fr; brhe;jkhf ePz;l ehs; Fj;jif mog;gilapy; ghuj; bgl;nuhypak; fhh;g;nu#d;

xg;g[f; bfh;sf; Toa tpiyf;F tH";f tpUg;gKs;s Mz;/bgz; tpz;zg;gjhUU;fSf;F Kd;Dhpik jug;gLk;. ghuj; nf!; tpepnahfj;jpw;fhf njh;t[ bra;ag;gl;l gpd;g[

Mz; bgz; tpz;zg;gjhUU; jhd; Vw;fdnt

Fwpg;gpl;l epyj;ij ,uz;L khj";fSf;Fs; juKoahj gl;rj;jpy; mtUf;F xJf;fg;gl;l tzpf  
chpik uj;J bra;ag;gLk;. (murpd; epjp cWjpg; gj;jpu";fs; \yk; ikakhf

xJf;fg;gl;l epjpepWtd tpz;zg;gjhu;fis jtpu kw;w tpz;zg;gjhu;fSf;nf ,t;tpjp Kiw  
bghUe;Jk; - Mjpjpuhtplh;/gH";Foapdh; kw;Wk; jFjpa[s;s bgz;fs;)

5. A mere reading of the clause makes it clear that the clause contains the following four limbs.

i. The applicants shall furnish complete details of the land to be offered for distributorship along with the application.

ii. That the location of the land so offered by the applicants would be considered on the commercial point of view by the Corporation.

iii. Preference would be given to the applicant who would offer to sell or give in long term lease to the Corporation the land the details of which

were given in the application for the price acceptable to the Corporation.

iv. If the selectee is not able to so offer the land, the details of which were already furnished within two months, the dealership granted in favour of

the selectee would be cancelled.

6. From the above, it is clear that the applicants have to furnish the details of the land, which they intend to offer for dealership along with the

application for dealership. The suitability of the land so offered by the applicants would be considered by the Corporation from the commercial

point of view. A conjoint reading of the first two limbs of the clause would manifestly make it clear that the applicants should give the details of the

land along with their application so as to enable the Corporation to evaluate more suitable land from the commercial point of view.

7. The third limb of the clause gives preference to the applicants who offered to sell away the land or lease it for long term to the Corporation, the

details of which were already furnished along with the application. This would also suggest the details of the land to be offered for distributorship

has to be furnished along with the application.

8. The last limb of the clause has been taken by Mr. Subramanian for his aid to contend that the land has to be offered within two months from the

date of grant of distributorship, which provides that, if the selectee has not offered the land, the particulars of which had already been given, within

two months, the dealership granted would be cancelled. This would mean, if the selectee is not able to make available the land, which has been

considered more suitable on evaluation by the Corporation on the commercial point of view within two months from selection, the dealership

granted in favour of the selectee would be cancelled. This exercise of consideration of the land by the Corporation has to be done prior to

selection. Hence the details of the land should be made known to the Corporation well in advance so as to enable the Corporation to evaluate

prior to selection. Hence the contention contra to the same by Mr. R. Subramanian has to be rejected. Even in this clause also, there is a reference

to the land, the details of which has already been furnished. Hence a conjoint reading of the four limbs of the clause (v) would make it clear that the

applicant has to furnish the details of the land along with the application.

9. Admittedly in this case, the appellant has not complied with the above condition of furnishing the details of the land along with the application.

Hence there is non-compliance of the clause (v) on the part of the appellant. Therefore, the noting of the Chairman of the third respondent referred

to by the learned Judge in paragraph 12 of his order, who had the advantage of going through the entire file is also against the facts since the

weightage has been given to the three selectees, particularly the appellant herein, on the basis of the claim made by them with regard to the land.

10. The case cited by the learned counsel in advantage of the appellant is in our view not applicable to the facts of the present case because in that

case no clause similar to the clause, with which we are concerned in this case has been considered and a decision has been rendered thereon.

11. Each case depends on its own facts. A close similarity between one case and another is not enough because even a single significant detail may

alter the entire aspect. It is well settled that in deciding such cases, one should avoid the temptation to decide cases by matching the colour of one

case against the colour of another. To decide, therefore, on which side of the line a case falls, the broad resemblance to another case is not at all

decisive. A single additional or different fact may make a ocean of difference between conclusions in two cases.

12. Apart from the said point, no other point has been canvassed before us. Hence we are of the view that nothing is made out in this appeal so as

to entertain the same for consideration. Hence the appeal is dismissed. Consequently, the connected W.A.M.P is dismissed. No costs.