



**\* SMT JUSTICE T. RAJANI**  
**+ WRIT PETITION No.20170 of 2013**

% 11.12.2019

# Sannala Brahmaji @ Brahmarao, S/o.Rama Rao, aged about 43 years, Hindu, Business, R/o.Bantumilli, Bndar Mandal, Krishna District.

... Petitioner

Vs.

\$ 1. Bharat Petroleum Corporation limited, Government of India Enterprises, Bharat Bhavan 4& 6, Currimbhoy Road, Ballardestate,Mumbai, rep. by its Chairman. And

2. Territory Manager, Vijayawada LPG Territory Pinapaka (Village & Post), G.Konduru Mandal, Kondapalli, Vijayawada Rural, Krishna District.

.... Respondents

! Counsel for the petitioner: PARTY-IN-PERSON

Counsel for the Respondents: SRI O.MANOHAR REDDY

<Gist :

>Head Note:

? Cases referred:

1) (2010) 13 SCC 760



**HIGH COURT OF ANDHRA PRADESH**

**WRIT PETITION No.20170 of 2013**

Between:

Sannala Brahmaji @ Brahmarao, S/o.Rama Rao, aged about 43 years, Hindu, Business, R/o.Bantumilli, Bndar Mandal, Krishna District.

... Petitioner

Vs.

1. Bharat Petroleum Corporation limited, Government of India Enterprises, Bharat Bhavan 4& 6, Currimbhoy Road, Ballardestate,Mumbai, rep. by its Chairman. And

2. Territory Manager, Vijayawada LPG Territory Pinapaka (Village & Post), G.Konduru Mandal, Kondapalli, Vijayawada Rural, Krishna District.

.... Respondents

Date of Judgment Pronounced: 11.12.2019

Submitted for Approval:

**SMT JUSTICE T. RAJANI**

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| 1. Whether Reporters of Local newspapers may be allowed to see the judgments ? | Yes/No |
| 2. Whether the copies of judgment may be marked to Law Reporters/Journals      | Yes/No |
| 3. Whether Their Ladyship/Lordship wish to see the fair copy of the Judgment ? | Yes/No |

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T. RAJANI, J

**SMT JUSTICE T. RAJANI****WRIT PETITION No.20170 of 2013****ORDER:**

This petition is filed seeking to declare the proceedings bearing Ref.VJD/LPG/Bantumilli, dated 20.04.2013, withdrawing the Letter of Intent (LOI) issued in favour of the petitioner for distribution of LPG in Bantumilli, Krishna District, by the respondents, as arbitrary and illegal.

2. The facts of the case, briefly, which lead to the filing of the petition, are as follows:

In response to the advertisement, dated 01.10.2007 issued by the respondents herein in a newspaper, the petitioner have applied for LPG Distributorship at Bantumilli and he was awarded the same by virtue of proceedings, dated 15.07.2009. Letter of Intent dated 06.10.2009 was also issued in favour of the petitioner. In terms of the terms and conditions of distributorship the petitioner obtained licenses under AP Petroleum Products (licensing and Regulation of Supplies Order, 1980 and the other requisite premises from the Government. While things stood thus, the Tahsildar, Bantumilli issued notice, dated 07.03.2010, calling upon the petitioner not to enter into the land since the land in R.S.No.111/2 of an extent of Ac.0-80 cents is Government land and the possession of the petitioner is in violation of the conditions of assignment. Questioning the said notice, the petitioner filed W.P.No.5989 of 2010 in the High Court of



Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh by order, dated 30.03.2010 quashed the said notice and directed the Tahsildar not to interfere with the possession of the petitioner. The Tahsildar ordered for resumption of land including the buildings constructed in the said land, on wrongful consideration of the contentions and the evidence on record. Aggrieved by the said order, the petitioner filed an appeal under Section 4A and the said appeal was dismissed by order, dated 18.03.2011. A revision was preferred against the said order, which was also dismissed by order, dated 19.11.2011. Against the said order W.P.No.3810 of 2012 was filed before the High Court and stay order of operation of the orders of the authorities was granted. Pending proceedings under the Act, the 2<sup>nd</sup> respondent issued a show cause notice, dated 17.9.2010 calling upon the petitioner to explain as to why BPCL cannot take appropriate action as against wrong information given by the petitioner which is as follows:

“You have not provided the dimension of plot offered for LPG godown in application and also you have not mentioned anything about godown land but mentioned it as land for showroom.

II. Land mentioned in application i.e., R.S.No.111/1, pertains to RTC bus stand.

III. FD variance from RS.2,700000/- to Rs.270000/- and withdrawal of amount Rs.3,58,000/- on 14.11.2007. therefore total amount shown at the time of application ie., Rs.44,21,770/- reduced to Rs.12,37,770/- within the period of three months.

IV. Non production of your income certificates by appropriate authorities.”



In reply to the show cause notice, the petitioner submitted explanation, dated 10.10.2010, and requested to withdraw the action pursuant to the show cause notice. No orders were received till October, 2012. On 12.10.2012 the petitioner made a representation to the respondents to supply the stock. The petitioner's grandfather purchased an extent of Ac.0-60 cents under registered sale deed for a valuable consideration from one Satyanarayana, who purchased the land from Khuyana Bibi Saheb under registered sale deed dated 10.05.1953. The petitioner's grandfather also purchased an extent of Ac.1-00 in the said survey number under registered sale deed dated 11.02.1959. The petitioner's grandfather executed a registered Will in favour of the petitioner on 12.08.1977. His grandfather died on 29.12.1986. Thus, the petitioner became owner of the property and pattadar passbooks were also issued in favour of the petitioner. The title of the land in R.S.No.111/2 is the subject matter of writ petition and possession of the petitioner was being protected under the interim orders. The petitioner completed the constructions of showroom and godown as per specifications of the respondents. The respondents did not grant the stock to the petitioner due to which the petitioner filed W.P.No.3630 of 2013 and obtained an order directing the respondents to supply the stock. The petitioner made a representation by enclosing the copy of the said order. To his surprise, the respondents, by impugned proceedings, dated 20.04.2013, withdrew the LOI granted on 16.10.2009 after lapse of more than two years and after the order of the High Court, which is



wholly unsustainable. The petitioner will be subjected to grave hardship if the respondents do not supply stock of distribution as per LOI.

3. The respondents filed counter stating that the petitioner in his reply to the show cause notice, the petitioner mentioned that there was typographical error in Survey Number and confirmed that instead of R.S.No.111/2, R.S.No.111/1 was mentioned. The petitioner in his affidavit, dated 30.10.2007, produced along with the application, offered godown land under Survey No.111/1 only. Typographical error of mentioning R.S.No.111/1 instead of R.S.No.111/2 cannot happen both in application as well as in the affidavit. Moreover, the petitioner has not provided the dimension of the plot offered for LPG Godown in the application and also the petitioner has not mentioned anything about the godown land but mentioned it as land for showroom. As per clause No.7 of Bharat Petroleum Corporation Limited Brochure, all the applicants who readily have suitable godown/land for construction of godown for storage of filled LPG cylinders and shop/land for construction of shop for BP gas showroom for setting up of BP Gas Distributorship or have a firm commitment from the land owner for purchase/lease or can arrange it, are awarded marks. The details given along with the application alone will be considered for the said purpose and the applicant will not be given any opportunity to offer any other land subsequently. After selection of the applicant, physical verification of the godown land/godown as well as the showroom will be



undertaken. In the event it is found that there is variance in the details submitted with the application form and if the plot is not found suitable for construction of godown or the godown is not approved by CCOE, the allotment of the distributorship will stand automatically cancelled. If the applicant is unable to make godown duly approved by the Chief Controller of Explosives on the land/godown indicated in the application and/or showroom as per the Oil Company's standard layout on the land/shop indicated in the application, then the allotment of BP Gas Distributorship made to the applicant will automatically stand cancelled. The godown land under R.S.No.111/1 mentioned in application, alone will be considered and the candidate will not be given any other opportunity to offer any other land for godown site. The petitioner vide letter Ref. Nil, dated 10.10.2010, accepted that an amount of Rs.17,21,770/- was in his savings bank account and as they are only savings accounts, some amounts have gone out due to previous commitments. The amount mentioned should remain in the bank for minimum period of three months from the date of application or the interview date whichever is earlier. The petitioner in his reply for FD variance has mentioned that petitioner has fixed deposit for an amount of Rs.2,70,000/-, but the petitioner has mentioned the FD deposit, in the application, as an amount of Rs.27,00,000/-, which he claims to be a typographical error. The petitioner, in his application, stated that his gross annual income is Rs.5,00,000/-, i.e., professional income as Rs.2,00,000/- and agricultural income is Rs.3,00,000/-. Certain



documents have to be submitted for verification of gross annual income. The petitioner has given the details of ownership of R.S.No.111/2 but they are not relevant for withdrawal of LOI or the Show Cause Notice to the petitioner. On these grounds, the respondents seeks to dismiss the writ petition.

4. Heard the petitioner/party-in-person and Sri O.Manohar Reddy, learned senior counsel appearing for the respondents.

5. The petitioner contends that the survey number mentioned as R.S.No.111/1 is a typographical error and that the same can be understood from the fact that he also furnished the sale deed along with the application which consists of the correct survey number. The respondents' counsel, in answer, submits that the marks would be awarded to the candidates based on the information furnished in the application. But it is not disputed that the land in survey No.111/2 is not as per the specifications. It can be appreciated from the undisputed fact that the documents containing the correct survey number were furnished along with the application. No *mala fides* can be made out on the part of the petitioner in mentioning the survey number as R.S.No.111/1. In all probability, it can be said that it is a typographical error, as contended by the petitioner.

6. The counsel for the petitioner relies on the judgment of the Patna High Court in **Rupesh Kumar Verma vs. The Indian Oil Corporation** in Civil Writ Jurisdiction Case No.14425 of 2018,





wherein, dealing with the contention of a typographical error, the court held that the typographical error which did not change the size, shape and area and boundary of the plot would not have affected eligibility and could by no stretch of imagination affect the eligibility of candidate.

7. The next contention is with regard to the bank balance not being maintained for three months, as required. The answer to the argument with regard to the said violation is that at the time of application, the Bank balance, as mentioned, was very much available, but due to the requirement of the amount for construction of the structures in the land, the petitioner has to withdraw the amount. The said answer cannot be accepted as it would nevertheless amount to the violation of the condition.

8. The petitioner, while seeking this court to take a liberal view since he had invested huge amounts in raising structures and since he already raised extensive structures over the land, relies on a judgment of the Supreme Court reported in **Shalimar Gas vbs. Indian Oil Corpn. Ltd.**,<sup>1</sup> wherein it was held that the Law should take a liberal and humane view in case of war widows, physically handicapped people, etc. It is obvious that the petitioner is a physically handicapped person. The facts of the case dealt with by the Supreme Court are almost similar to the facts of this case. In the said case, Indian Gas distributorship was allotted to a widow, as a sole

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<sup>1</sup> (2010) 13 SCC 760



proprietor of M/s. Shalimar Gas. The petitioner therein continued to look after the management with the help of her two daughters. After the marriages of her two daughters she entered into a partnership with one Abnil Kumar amounting to misrepresentation and hence, her distributorship was cancelled. In the above scenario of facts, the Supreme Court, by observing that the gas agency was the sole source of the livelihood of the petitioner and that the respondents unfortunately have not taken a humanitarian view in the matter, set aside the order of termination impugned therein.

9. The petitioner contends that the inspection and enquiry made by the respondents is much after the lapse of three months during which the Bank balance has to be maintained. Absolutely, there is no prejudice caused to the respondents due to non-maintaining of the bank balance. On that premise, the petitioner seeks this court to consider his case on the equities. He also relies on another judgment of the Supreme Court reported in SLP(C) Nos.21029-30 of 2008 between **Smt. Moumita Poddar vs. Indian Oil Corporation Ltd., & Another**. In the said judgment, the Supreme Court observed that the selection process by the 1<sup>st</sup> respondent was handled clumsily and it ought not to result in disqualification of the 2<sup>nd</sup> respondent, who was perhaps not properly guided. It also observed that there were no allegations made that the 2<sup>nd</sup> respondent has either manipulated the selection or that any undue favour has been shown to her by the selection committee. It also took note of the fact that the entire



structure has been made available with the combined efforts of respondents 1 and 2 therein and closure of the dealership, at that juncture, would result in disastrous consequences to the 2<sup>nd</sup> respondent. It also noted that it is not a case where the selection is vitiated by proved *mala fides* nor any allegations of undue favour being shown to the 2<sup>nd</sup> respondent, has been made.

10. The respondents' counsel places reliance on the order of the High Court of Judicature at Hyderabad for the State of Telangana and the State of Andhra Pradesh, passed in W.P.No.6747 of 2013, wherein by considering that the petitioner has misled the corporation into believing that she holds Rs.8,00,000/- in the bank account held that there was no reason to interfere with the order of the cancellation of dealership. But in this case, the fact that the petitioner is a handicapped person and that he has invested huge and that the enquiry caused by the respondents is much after the date of interview, would weigh with this court in the light of the judgments relied upon by the petitioner's counsel, in favour of granting the prayed for relief in the writ petition.

11. With the above observations, the Writ Petition is allowed setting aside the proceedings bearing Ref.VJD/LPG/Bantummilli, dated 20.04.2013 issued by the respondents.

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**T. RAJANI, J**

**December 10, 2019**  
**LMV**



**SMT JUSTICE T. RAJANI**

**WRIT PETITION No.20170 of 2013**

December 10, 2019

LMV