

**THE HONOUABLE SRI JUSTICE V.ESWARAIAH**

**W.P. No. 21243 of 2005**

**Date:31-08-2007**

Between:

S.Srinivasa Rao

## .. PETITIONER

AND

Bharat Petroleum Corporation Ltd. by its Territory Manager(Retaill)  
and three others

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## RESPONDENTS

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**ORDER:**

The petitioner seeks a writ of mandamus to declare the action of the respondents 1 to 3 in not selecting the petitioner as a dealer for retail outlet under Fleet Operator Category at Pedana of Krishna District and selecting the 4<sup>th</sup> respondent for appointment of dealer for retail outlet under Fleet Operator Category at Pedana of Krishna District overlooking the claim of the petitioner, as illegal and arbitrary.

It is the case of the petitioner that pursuant to the notification published on 02.08.2005 inviting the applications for appointment of dealers for retail outlet under fleet operator category at Pedana of Krishna District, the petitioner, 4<sup>th</sup> respondent and another have filed applications and interviews were held with reference to the documents and reports submitted. It is stated that out of 100 marks, 35 marks for capability to provide land and infrastructure/facilities, 25 marks for capability to provide finance, 31 marks for capability to generate business, 4 marks for experience and 5 marks for business ability/acumen were allotted. It is stated that the petitioner is more meritorious than the 4<sup>th</sup> respondent and therefore, the petitioner ought to have been selected.

A counter has been filed by the respondents 1 to 3 stating that the petitioner had submitted documents like proof of ownership of 7 vehicles and 6 attached vehicles along with details of 200 vehicles wherein RC copies were attached, but there was no commitment letter from the vehicle owners stating that they would draw the fuel from him on commissioning of the retail outlet. It is also stated that the petitioner

submitted an affidavit giving a committed volume of only 36 kl of HSD per month; whereas the

4<sup>th</sup> respondent had submitted commitment letters from various transporters and boat owners to the tune of 136 kl of HSD per month. It is further stated that in respect of land the petitioner had offered a land on lease from third party, whereas the 4<sup>th</sup> respondent had offered his own land. Hence, the 4<sup>th</sup> respondent was awarded 35 marks, whereas the petitioner was awarded 25 marks. It is stated that under the head capability to generate business towards tied up volume, out of 16 marks, the petitioner was awarded 3.4 and the 4<sup>th</sup> respondent was awarded 12.3. The petitioner has no complaint about the marks awarded relating to the project work and overall assessment.

The perusal of the records goes to show that the selection committee verified the documents produced and as per the interview committee the petitioner scored only 61.77 marks; whereas the 4<sup>th</sup> respondent scored 90.8 marks. Thus, there is a difference of 29 marks. Therefore, I am of the opinion that even if the contention of the learned counsel for the petitioner is accepted that the petitioner is entitled for 20 more marks, still there will be shortage of 9 more marks. Therefore, in view of the overall marks obtained by the 4<sup>th</sup> respondent wherein the difference of marks is 29, I am of the opinion that the action of the respondents 1 to 3 cannot be held to be illegal and without any justification. Thus, there are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

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**V.ESWARAIAH, J.**

**Date:31.08.2007**  
**CCM**

