

GAHC010251332022



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

WP(C)/4981/2019

M/S. BINAPANI RANDHAN GAS
REP. BY ITS PROPRIETOR SMT. PALLAVI LAHKAR
AGED ABOUT 39 YEARS
W/O.- LT. PRASANTA BORA
R/O- RANGIA
P.O.
P.S.- RANGIA
DIST.- KAMRUP
ASSAM. PIN NO.- 781354.

VERSUS

INDIAN OIL CORPORATION LTD. AND 5 ORS.
REP. BY THE CHAIRMAN CUM MANAGING DIRECTOR
INDIAN OIL BHAWAN
LODHI ROAD
NEW DELHI-110011.

2:THE EXECUTIVE DIRECTOR
INDIAN OIL CORPORATION LTD. INDIAN OIL BHAWAN
G-09
ALI YAVAR JUNG MARG
BANDRA EAST
MUMBAI
PIN- 400051.

3:THE GENERAL MANAGER (LPG)
INDIAN OIL BHAWAN
NORTH EAST INTEGRATED STATE OFFICE
NEAR GUWAHATI SECTOR-3
NOONMATI
GUWAHATI- 781020.

4:THE DEPUTY GENERAL MANAGER (LPG)
INDIAN OIL- AOD

NORTH NORTH EAST INTEGRATED AREA OFFICE
3RD FLOOR
EAST POINT TOWER
BAMUNIMAIDAN
GUWAHATI- 781021
KAMRUP
ASSAM.
5:THE CHIEF LPG MANAGER
INDIAN OIL BHAWAN
NORTH EAST INTEGRATED STATE OFFICE
NEAR GUWAHATI SECTOR-3
NOONMATI
GUWAHATI- 781020.
6:THE SR. MANAGER (LPG)
INDIAN OIL- AOD
NORTH NORTH EAST INTEGRATED AREA OFFICE
3RD FLOOR
EAST POINT TOWER
BAMUNIMAIDAN
GUWAHATI- 781021
KAMRUP
ASSAM.

Advocate for : MRS N SAIKIA
Advocate for : SC
I O C appearing for INDIAN OIL CORPORATION LTD. AND 5 ORS.

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

10.02.2023

The validity of a circular dated 04.01.2018, in particular, is in challenge in this writ petition. The petitioner is a registered proprietorship firm, namely, M/S Binapani Randhan Gas which was allotted a LPG distributorship at Rangia town. An agreement was entered into between the Indian Oil Corporation (IOC) authorities and the petitioner on 12.06.2002. The Trade Licence of the petitioner was renewed from time to time and the distributorship was being run to the full satisfaction of the respondent authorities. At that time, there was a proposal to transfer certain customers from the distributorship of the petitioner.

2. Initially, the writ petition was filed wherein, this Court had directed the petitioner to file a representation which was, however rejected by the respondent authorities. The rejection was mainly on the basis of a Circular dated 04.01.2018 which gives the powers to the Corporation to change and transfer the consumers attached to a particular distributorship.

3. I have heard Ms. N Saikia, learned counsel for the petitioner whereas the IOC Ltd. is represented by Shri MK Choudhury, learned Senior Counsel assisted by Shri P Bharadwaj, learned counsel.

4. Before going into the merits of the challenge, this Court has been apprised that the vires of the circular dated 04.01.2018 was the subject matter of challenge of the writ petition pending before the Hon'ble Madras High Court and the Hon'ble Bombay High Court. Both the Hon'ble High Courts vide the judgments dated 30.09.2019 passed in WP(C)/8753/2018 (Mrs. Shailaja R Khanvikar & Ors. Vs. Union of India & Ors.) and dated 25.11.2019 passed in WP No.(MD)/24844/2019 (M/S JSR Gas Links Vs. Union of India), respectively had interfered with the said circular by setting it aside. This Court has further been informed that the aforesaid judgments are, however the subject matter of appeal pending in the Hon'ble Supreme Court of India.

5. In view of the aforesaid facts and circumstances, without, again going to the merit of the dispute, this Court is of the opinion that since two Hon'ble High Courts had interfered with the impugned circular dated 04.01.2018, a similar approach can also be taken by this Court.

6. Accordingly, the impugned circular dated 04.01.2018 is set aside and held to be inoperative. Consequently, the Corporation is directed to re-allot all the customers to

the petitioner's Gas agency which were transferred from the petitioner's distributorship. The aforesaid exercise is directed to be completed within a period of 8 weeks from today.

7. It is needless to say that the aforesaid direction would obviously be conditional to the decision to be taken by the Hon'ble Supreme Court which would be binding on the parties.

8. The writ petition stands disposed of.

JUDGE

Comparing Assistant