

GAHC010201512024



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

Case No. : WP(C)/5001/2024

M/S SHANTI INDANE SERVICE
AT TITATALA, PS LAHORIGHAT,
DIST MORIGAON, ASSAM,
REP. BY THE PROPRIETOR MD. MUKTAR HUSSAIN,
S/O LATE RAJAB ALI,
RESIDENT OF VILLAGE TITATOLA,
PO BORIBANDHA, PS LAHORIGHAT,
DIST MORIGAON, ASSAM 782127

VERSUS

THE STATE OF ASSAM AND 3 ORS
REPRESENTED BY THE COMMISSIONER AND SECRETARY TO THE GOVT.
OF ASSAM FOOD AND CIVIL SUPPLIES AND CONSUMER AFFAIRS DEPT.
DISPUR GUWAHATI 781006

2:THE DIRECTOR OF FOOD
PUBLIC DISTRIBUTION AND CONSUMER AFFAIRS (FFD AND CA) AT
BHANGAGARH GUWAHATI 05 ASSAM

3:THE DISTRICT COMMISSIONER
MORIGAON ASSAM 782105

4:INDIAN OIL CORPORATION LIMITED
ASSAM OIL DIVISION INTEGRATED AREA OFFICE
GUWAHATI 3RD FLOOR
EAST POINT TOWER BAMUNIMAIDAM
GUWAHATI 78102

Advocate for the Petitioner : MR Z HUSSAIN, MS B B AHMED

Advocate for the Respondent : GA, ASSAM, SC, I O C

**BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA**

ORDER

Date : 27.09.2024

Heard Mr. Z. Hussain, learned counsel for the petitioner, who submits that the petitioner is a distributor of Liquefied Petroleum Gas (LPG) filled Cylinders at Lahorighat since 11.06.2014, in terms of the licence dated 05.04.2014 issued by the Addl. Deputy Commissioner, Morigaon, under the Assam Trade Articles (Licence and Control) Order 1982 as well as in terms of Memorandum of Agreement between the IOCL and the petitioner.

2. The petitioner's case is that the officials of the Food Public Distribution and Consumer Affairs visited the business premises of the petitioner and submitted a report to the Deputy Commissioner, which resulted in the impugned order dated 19.09.2024 being issued by the office of the District Commissioner. The impugned order dated 19.09.2024 is to the effect that the inquiry made in respect of the business of distribution of LPG cylinders by the petitioner showed that he had been selling domestic LPG cylinders to unauthorised consumers through unauthorised persons, in an illegal manner for illegal monetary gain and as such, contravened the term and condition No. 5(i) and (ii) of the Trade Licence issued to the dealers under the provisions of Assam Trade Articles (Licence and Control) Order 1982, read with Clause 10 of the said order and also contravened Clause 3(4)9(d)(e) of the Liquefied Petroleum Gas (Regulation of Supply and Distribution) Order 2000. The action of the petitioner deprived the genuine beneficiaries from getting the LPG. Further, though the petitioner was directed to submit the complete list of Ujjala Beneficiaries within

11.09.2024, the dealer disobeyed the instructions of the Licensing Authority and thus contravened condition No. 10 of the licence issued to the dealer.

3. The petitioner's trade licence No. 88(R)7/2014 was accordingly suspended, vide the impugned order dated 19.09.2024 by the District Commissioner, Morigaon under the Assam Trade Articles (Licence and Control) Order 1982 and the Liquefied Petroleum Gas (Regulation of Supply and Distribution) Order 2000. The LPG consumers under the petitioner were thereafter tagged with M/s EDE Touch Gas Agency, Morigaon.

4. The petitioner's counsel submits that a detailed inquiry report was to be made within 26.09.2024 by the Deputy Commissioner's office. Further, though the petitioner had submitted a representation dated 19.09.2024 to the District Commissioner, Morigaon, to review the order of suspension of trade licence and to cause a fresh enquiry of the allegation by an impartial officer, the same not having been done, the petitioner has approached this Court. The petitioner's counsel submits that no notice was issued to the petitioner prior to issuance of the suspension order.

5. The petitioner's counsel submits that the District Commissioner does not have any authority to issue the suspension order, in terms of Liquefied Petroleum Gas (Regulation of Supply and Distribution) Order 2000.

6. The petitioner's counsel submits that the petitioner had submitted a representation dated 19.09.2024 to the District Commissioner, Morigaon on 20.09.2024, praying that the impugned order of suspension of the trade licence of his distributorship should be reviewed and to allow him to continue with his

LPG distributorship. However, the same has not been considered by the District Commissioner, Morigaon.

7. Mr. S. S. Roy, learned counsel appears for the State respondents and Mr. M. K. Choudhury, learned counsel appears for the IOCL.

8. On perusing the writ petition, I find that while the impugned order had been issued on 19.09.2024, the petitioner had prayed for review of the impugned order by submitting his application for review of the suspension order on 20.09.2024. The writ petition was filed 3 days later on 23.09.2024.

9. On considering the fact that the petitioner had hardly given any time to the respondent No. 3 to take a decision on the petitioner's representation, I am of the view that the alternative remedy availed of by the petitioner should be allowed to continue, inasmuch as, the respondent No. 3 should be given more time to take a decision on the petitioner's representation. The impugned order shows that the suspension of the petitioner's LPG distributorship has been made with regard to the petitioner selling domestic LPG Cylinders to unauthorised consumers for monetary gain. The same pertains to questions of fact, for which the District commissioner had also directed certain officers to submit a detailed inquiry report by 26.09.2024, as can be seen from the "copy to" given to Sr. No. 6 in the impugned order dated 19.09.2024. Further, the licence given to the petitioner in terms of Clause 4 (1)(B) of the 1982 Order had been suspended by the same authority, who issued the above licence. As such, this Court is of the view that the petitioner should have waited for a reasonable amount of time, to enable the respondent No. 3 to take a decision on the petitioner's representation dated 19.09.2024, which he submitted on 20.09.2024. This Court

is accordingly not inclined to entertain this petition at this stage.

10. In view of the reasons, this writ petition is disposed of with a direction to the respondent No. 3 to take a decision on the petitioner's representation at the earliest, preferably within a period of 10 days from the date of receipt of a certified copy of this order.

JUDGE

Comparing Assistant