



W.A.No.3193 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2024

CORAM :

**THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR**

**and**

**THE HONOURABLE MR.JUSTICE P.B.BALAJI**

**W.A.No.3193 of 2024**

**and**

**C.M.P.Nos.24643 & 24646 of 2024**

Tamil Nadu Petroleum Dealers Association,  
Represented by its Secretary,  
No.17, 10<sup>th</sup> Street,  
Kalaingnar Nagar, Tiruvottiyur,  
Chennai 600 019.

... Appellant

Vs.

1.The Executive Director / State Level Coordinator,  
Indian Oil Corporation Limited,  
Indian Oil Bhavan,  
No.139, Nungambakkam High Road,  
Chennai 600 034.

2.The State Head (Retail),  
Bharat Petroleum Corporation Limited,  
No.1, 15<sup>th</sup> Main Road, Ranganathan Garden,  
Anna Nagar, Chennai 600 040.



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3.The Chief General Manager,  
Hindustan Petroleum Corporation Limited,  
Thalamuthu Natarajan Building,  
Gandhi Irwin Road, Ansari Estate,  
Egmore, Chennai 600 008.

4.The Controller of Legal Metrology,  
(Weights & Measures),  
Government of Tamilnadu,  
DMS Compound, Teynampet,  
Chennai 600 006.

... Respondents

**PRAYER:** Writ Appeal filed under Section 15 of Letters Patent, pleased to set aside the impugned judgment and final order dated 26.09.2024 which was uploaded in the High Court web-site on 18.10.2024 in W.P.No.28688 of 2024 and allow the Writ Appeal as prayed for.

For Appellant : Mr.V.B.R.Menon

For Respondents : Mr.Vijay Narayan, Standing Counsel  
1 to 3 for Mr.Mohammed Fiayaz Ali

For Respondent 4 : Mr.Karthik Jagannath, Government Advocate

### **JUDGMENT**

(Judgment of the Court was made by D.KRISHNAKUMAR,J.)

The appellant has filed the present writ appeal to set aside the order passed in W.P.No.28688 of 2024, dated 26.09.2024 which was uploaded in the High Court web-site on 18.10.2024.



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2. The appellant/ writ petitioner is an Association having about 5800 petroleum retail outlets of Tamil Nadu as its members and it acts as the interface between the individual dealers and the oil marketing companies and takes up common issues/problems of the petroleum dealers to find timely resolutions to those issues through appropriate means. The petitioner association has several experience dealers as its members, who possess a reservoir of expertise and knowledge about the functioning of the industry and trade.

2.1. Proper and timely calibration of Tank towers/Prover Vessels at the OMC (Oil Marketing Company) installation and delivery of correct quantities of products by the OMCs to the dealers are vital to the existence and viability of trade by the dealers. The initiatives by the Central and State governments to bring in transparency and standardization of the Tower calibration process in the OMC terminals have resulted in the formulation of a Standard Operating Procedure (SOP) for the same purpose. Accepting the importance of the SOP, the Hon'ble Court in W.P.No.20328 of 2024 filed by the appellant association has directed the respondents to implement the



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same within a period of 6 months, vide order dated 03.09.2024.

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2.2. The Prover Vessels of the Oil Marketing Companies function as the primary instruments for the calibration of the Tank Trucks carrying petroleum products. The annual verification and restamping of the above-mentioned prover vessels have been taking place with multiple errors/commissions due to improper maintenance of such vessels and non-adherence of procedures under the proper supervision and guidance of the respective officers of the Labour Department.

2.3. The Labour Commissioner took serious view of the deficiencies and shortfalls in the system of calibration of prover vessels and other equipment at the installations, maintained by the OMCs and issued orders to the OMCs and to the officers of the Department of Labour, to follow the due process and procedures laid out therein, scrupulously.

2.4. Since a standard design for prover vessels is not available, critical factors such as the position of the adjustment cylinder, level of the



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meniscus in the viewing tube, length and position of the drain pipe, etc., should be recorded in the presence of the officers of the OMCs, representatives of the Association and the officer of the department of labour and the same should be signed by all stakeholders concerned. This will ensure transparency in the process to the satisfaction of all the stakeholders.

2.5. The petitioner association had sent a representation to the respondents on 17.08.2024 requesting to take immediate steps to get the prover vessels calibrated in time at the depots/installations belonging to the respondents 1 to 3, where the validity of previous calibrations have already expires or are going to expire soon.

2.6. In such circumstances, the appellant association has filed the above writ petition seeking direction to the respondents 1 to 3 to arrange for and complete calibration of all the prover vessels and depot towers which have become overdue for calibration at their installations/depots in Tamilnadu immediately in the presence of the representatives of the



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Association until the Standard Operating Procedure (SOP) dated 19.08.2023

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is implemented in whole, for the following among others.

2.7. The above writ petition was disposed of vide order dated 26.09.2024, which was uploaded in the High Court website on 14.10.2024, by recording the submission of the learned Government Advocate that “ *the standard operating procedure (SOP) dated 19.08.2023 has already been implemented in the State of Tamilnadu, pursuant to the direction issued by this court in W.P.No.20328 of 2024* ”. Subsequently, another order was replaced in the same W.P.No.28688 of 2024, dated 26.09.2024, which was uploaded in the High Court website on 18.08.2024 as “ *The learned Government Advocate submitted that as per directions of this court dated 03.09.2024, the Standard Operating Procedure dated 19.08.2023 should not follow and the old procedure which was go prior to SOP is follows* ”. Challenging the above impugned order, this writ appeal has been filed.

3. Learned counsel for the appellant submitted that the earlier order was passed, which was uploaded on 14.10.2024 in W.P.No.28688 of 2024



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dated 26.09.2024, only after recording the submission of the government advocate that as per the direction of this court dated 03.09.2024, the Standard Operating Procedure dated 19.08.2023 has been implemented. Therefore, there is no necessary to clarify the above order, by uploading another order as “ *The learned Government Advocate submitted that as per directions of this court dated 03.09.2024, the Standard Operating Procedure dated 19.08.2023 should not follow and the old procedure shich was go prior to SOP is follows*”, which is contrary to the earlier order.

3.1. Learned counsel appearing for the appellant submitted that learned Single Judge has not given any adjudication on the issues as to how the calibrations are to be conducted until the SOP is fully implemented in any location and what is the reasonable time period to be completed in all the pending calibrations, whereas, he has closed the writ petition, without considering all the relevant documents and the averments made by the appellant; and also without giving any findings and decision on the dispute, merely recording the submission of the learned Government Advocate.



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4. The Controller of Legal Metrology (4<sup>th</sup> respondent) has filed a Status report stating that the prover vessels installed by the Oil Marketing companies in their oil terminals are subjected to verification/calibration, as mandated under Section 24 of the Legal Metrology Act and they fall under Rule 27(2)(c) of the General Rules. Hence, the prover vessels are to be verified and stamped by the authority concerned once in twelve months, after collection of necessary stamping fees. The Deputy Inspectors of Labour of their respective jurisdictions are designated as Assistant Controllers of Legal Metrology who acts as the authority for the verification and stamping process. As per the order passed in W.P.No.20328 of 2024, dated 03.09.2024, effective steps have been taken to implement the SOP dated 19.08.2024. The Government of India, Ministry of Consumer Affairs, Food and Public Distribution, Department of Consumer Affairs, Weights and Measures Unit, vide their letter dated 10.10.2023, also communicated to all the Oil Marketing Companies (OMCs) and all the state controllers of Legal Metrology in the country to follow a Standard Operating Procedure (SOP) dated 19.08.2023, for calibrating prover vessels used to calibrate Tanker lorries. On receipt of the



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same, the copy was forwarded by this respondent to all the concerned officers to take necessary action and implementation of the SOP, vide office memorandum dated 02.11.2023. After repeated advices given to the OMCs to follow the SOP for calibration of prover vessels issued by the Government of India, some of the terminals of the OMCs insisted only on allowing the dealers associated with their company to witness the calibration process, thus resulting in some confusion in the calibration centres, the calibration process has been delayed.

4.1. There are about 15 terminals in the State and the status of the verification and stamping process is as follows.

| <i>sl No</i> | <i>Dil</i>         | <i>Name of the OMC &amp; Terminal place/ District</i> | <i>The date on which the calibrated followed the new SOP</i> | <i>The date on which the calibrated followed before the SOP</i> | <i>Pen-ding/ scheduled for calibration dates</i> | <i>Remarks</i>                                      |
|--------------|--------------------|-------------------------------------------------------|--------------------------------------------------------------|-----------------------------------------------------------------|--------------------------------------------------|-----------------------------------------------------|
| 1            | DIL, Tiruvottriyur | HPCL, Ennore                                          | 30.12.2023                                                   | --                                                              | --                                               | As per New SOP calibration completed on 30.12.2023. |
| 2            | DIL, Pollachi      | BPCL, Irugur                                          | 08.02.203                                                    | --                                                              | --                                               | As per New SOP calibration completed on 08.02.2024  |



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| <i>Sl No</i> | <i>Dil</i>          | <i>Name of the OMC &amp; Terminal place/ District</i> | <i>The date on which the calibrated followed the new SOP</i> | <i>The date on which the calibrated followed before the SOP</i> | <i>Pen-ding/ scheduled for calibration dates</i> | <i>Remarks</i>                                     |
|--------------|---------------------|-------------------------------------------------------|--------------------------------------------------------------|-----------------------------------------------------------------|--------------------------------------------------|----------------------------------------------------|
| 3            | DIL, Tirunelveli    | BPCL, Tirunelveli                                     | 19.03.2024                                                   | --                                                              | --                                               | As per New SOP calibration completed on 19.03.2024 |
| 4            | DIL, Tirunelveli    | HPCL, Tirunelveli                                     | 23.03.2024                                                   | --                                                              | --                                               | As per New SOP calibration completed on 23.03.2024 |
| 5            | DIL, Karur          | BPCL, Karur                                           | 25.07.2024 and 26.07.2024                                    | --                                                              | --                                               | As per New SOP calibration completed on 25.07.2024 |
| 6            | DIL, Virudhunagar   | IOCL, Kappalur                                        | 30.07.2024 and 31.07.2024                                    | --                                                              | --                                               | As per New SOP calibration completed on 31.07.2024 |
| 7            | DIL, Thiruvottriyur | BPCL, Ennore                                          | 23.10.2024, 24.10.2024 and 25.10.2024                        | --                                                              | --                                               | As per New SOP calibration completed on 25.10.2024 |
| 8            | DIL, Pollachi       | HPCL, Irugur                                          | --                                                           | 21.09.2023                                                      | 07.11.2024 and 08.11.2024                        | postponed                                          |
| 9            | DIL, Pollachi       | IOCL, Irugur                                          | --                                                           | 21.09.2023                                                      | 06.11.2024                                       | postponed                                          |
| 10           | DIL, Tiruchengode   | IOCL, Sankagiri                                       | --                                                           | 19.09.2023                                                      | 06.11.2024, 07.11.2024                           | postponed                                          |
| 11           | DIL, Tiruchengode   | BPCL, Sankagiri                                       | --                                                           | 28.06.2023                                                      | 14.11.2024                                       | postponed                                          |
| 12           | DIL, Trichy         | IOCL,                                                 | --                                                           | 16.11.2022                                                      | 11.11.2024                                       | postponed                                          |



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| <i>Sl No</i> | <i>Dil</i>        | <i>Name of the OMC &amp; Terminal place/ District</i> | <i>The date on which the calibrated followed the new SOP</i> | <i>The date on which the calibrated followed before the SOP</i> | <i>Pen-ding/ scheduled for calibration dates</i> | <i>Remarks</i> |
|--------------|-------------------|-------------------------------------------------------|--------------------------------------------------------------|-----------------------------------------------------------------|--------------------------------------------------|----------------|
|              |                   | Vazhavan-thankottai                                   |                                                              |                                                                 | and 12.11.2024                                   |                |
| 13.          | DIL, Villupuram   | IOCL, Asanur                                          | --                                                           | 31.03.2023                                                      | 06.11.2024                                       | postponed      |
| 14.          | DIL, Dharmapuri   | HPCL, Dharmapuri                                      | --                                                           | 17.05.2023 and 18.05.2023                                       | 05.11.2024, 06.11.2024 and 07.11.2024            | postponed      |
| 15.          | DIL, Virudhunagar | HPCL, Kappalur                                        | --                                                           | --                                                              | 06.11.2024                                       | Postponed      |

4.2. Learned Government Advocate appearing for the fourth respondent further submitted that out of 15 prover vessel terminals belonging to the OMCs in the State, calibration of prover vessels in 7 terminals have been completed, following the SOP. However, prover vessels calibration is delayed and pending in the remaining 8 Terminals.

5. Learned Standing counsel appearing for the respondents 1 to 3 has not denied the above factum of completion of the prover vessels in the 7 Terminals, following the S.O.P. He however, raised objection that the new



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S.O.P. cannot be implemented, as it needs to be implemented only after receiving the comments from the OMCs and until then, it should not be implemented.

6. Heard the counsel on either side and we have gone through the order passed by the learned Single Judge and perused the materials on record.

7. The writ court, after accepting the submission made by the learned Government Advocate appearing for the fourth respondent has closed the W.P.No.28688 of 2024, dated 26.09.2024 by passing the following order.

**“ The learned Government Advocate submitted that as per the directions of this court dated 03.09.2024, the Standard Operating Procedure dated 19.08.2023 has been implemented.”**

However, the above order was subsequently replaced with the following order

***“ 2. The learned Government Advocate submitted that as per directions of this court dated 03.09.2024, the Standard Operating Procedure dated 19.08.2023 should not follow and the old procedure which was in force prior to SOP is follows.***



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**3. Recording the same, this writ petition is closed. No costs. ”**

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Both the orders were passed in the same writ petition in W.P.No.28688 of 20024, dated 26.09.2024, which is contrary to each other.

8. It is to be noted that, already the appellant has filed W.P.No.20328 of 2024 to direct the authorities concerned to implement the new SOP in letter and spirit to achieve uniform and transparent calibrations of all Depot towers/Prover vessels at the OMC installations. In the said writ petition, this court, vide order dated, 03.09.2024, has directed the fourth respondent to take effective steps to implement the SOP dated 19.08.2024, within a period of six months from the date of receipt of a copy of the order, ***after receiving comments from the OMCs, if there is no legal impediment.***

9. Further, in the status report filed by the fourth respondent, it is specifically stated that, already new S.O.P. has been implemented in the 7 Terminals out of 15 Terminals; and the process to initiate the new S.O.P. is



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pending, in so far as the remaining 8 Terminals are concerned. The relevant portion is extracted hereunder.

It is submitted that out of the 15 prover vessel terminals belonging to the OMCs in the State, calibration of prover vessels in 7 terminals have been completed, following the SOP. Prover vessels calibration is delayed and pending to be done in 8 Terminals. As the calibration of the prover vessels in these terminals has not been completed, the calibration of tanker lorries in these areas could not be done in time. It is further submitted that, it is imperative to ensure correct quantity of oil being delivered through tanker lorries, the tanker lorries should be calibrated within the prescribed time to protect the rights and interests of the consumers.

In such circumstances, when the new S.O.P. was already been implemented in some of the Terminals, the second impugned order was came to be passed by closing the writ petition, without any discussion.

10. At this juncture, learned counsel appearing for the appellant has requested to grant interim stay of the impugned order, otherwise, the fourth respondent may implement the present (second) impugned order, following the old S.O.P.



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11. In reply to the same, learned standing counsel appearing for the fourth respondent assured before this court that the process for initiating the new S.O.P has already been implemented, and the same will continue.

12. After elaborate discussion, both the counsel appearing on the parties have given consent to set aside the impugned order passed by the learned Single Judge dated 14.10.2024 and 18.10.2024.

13. In view of the consent made by the learned counsel on either side, we inclined to dispose of the writ appeal as follows:

i) Both the orders passed by the writ court in W.P.No.28688 of 2024, dated 26.09.2024, which were uploaded in the High Court website on 14.10.2024 and 18.10.2024 respectively are set aside.

ii) W.P.No.28688 of 2024 is remanded back to the writ court to pass appropriate orders, after hearing both the parties and after giving proper adjudication on the issue involved in the writ petition, within a period of three months from the date of receipt of a copy of this order.

iii) The parties shall maintain Status-quo, till the disposal of the writ



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petition.

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iv) Both the parties are at liberty to make their respective submission and objection before the writ court.

There shall be no order as to costs. Connected CMP Nos.24643 and 24646 of 2024 are closed.

**(D.K.K.J.) (P.B.B.J.)**

**06.11.2024**

Internet: Yes/No

Index : Yes/No

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**To**

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