

**HIGH COURT OF TRIPURA
AGARTALA**

CRP No.88 of 2025

1. Oil and Natural Gas Corporation Ltd., having its registered office at Deendayal Urja Bhavan, Plot No.5A, Nelson Mandela Marg, Vasant Kunj, New Delhi-110070 [to be represented by the Executive Director, Asset Manager]

2. Oil and Natural Gas Corporation Ltd., through its Executive Director, Asset Manager, Tripura Asset, Badharghat, Agartala, West Tripura-799014, earlier represented by Group General Manager (Tripura Asset), revisionist No.2 in Revision Petition No.2411 of 2012 before NCDRC

.....Petitioner(s);

Versus

1. Shri Priyalal Nag, son of Late Shri Baroda Kanta Nag, resident of Narsingarh, P.O.- Narsingarh, District- West Tripura, Tripura-799009

2. Government of India represented by the Director, Ministry of Petroleum and Natural Gas, Government of India, New Delhi-110001

3. The Office of the Official Liquidator, MCS Limited in C.P. No.219/2011, Bombay High Court, Section-X [Date of Liquidation 09.01.2015], 5th Floor, Bank of India Building, Mahatma Gandhi Road, Fort, Mumbai, Maharashtra-400023

4. The Karvy Consultants Ltd., Depository Participants, 21, Avenue-4, Street No.4, Banjara Hills, Hyderabad-500034

.....Respondent(s)

For Petitioner(s) : Mrs. Paromita Dhar, Advocate.

For Respondent(s) : None.

**HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE BISWAJIT PALIT**

Date of hearing : **20.12.2025**

Date of Judgment & Order : **21.01.2026**

Whether Fit for Reporting : **YES**

JUDGMENT & ORDER

(M.S. Ramachandra Rao, C.J.)

1) This Revision is filed under Article 227 of the Constitution of India challenging the order dt.08.07.2025 in Revision Petition No.2411 of

2012 rendered by the National Consumer Disputes Redressal Commission, New Delhi (for short 'National Commission').

Background Facts:

- 2) The first Petitioner is a Government of India Company in which there were 84.14% shares were owned by the President of India through Ministry of Petroleum and Natural Gas, Government of India [respondent No.2].
- 3) A policy decision was taken by the Government of India to disinvest 10% of the said shares, and through a letter dt.23.01.2004, the Government of India assigned the work of Registrar to a company called M/s MCS Ltd (respondent No.3).
- 4) The letter indicated that M/s MCS Ltd. was responsible for tracking and eliminating ineligible bids including technical rejections, providing to the bankers details of the money to be transferred to the "Offer for Sale Account", and the refunds to be made to the bidders; completing the printing and dispatch of confirmation of allocation notices/allocation and transfer advices and refund orders in a timely manner; completing the printing and dispatch of share certificates, whenever required in a timely manner and in accordance with legal requirement; ensuring that the transfer of shares, dispatch of certificate and DEMAT credit was in compliance with relevant foreign exchange legislation; stamp duty requirements, if any, handling investor complaints and queries pertaining to the offer, etc.

C.C. No.61 of 2006

5) The first respondent intended to purchase 200 shares of the Govt. of India in 1st petitioner Company offered for sale, and obtained a Bid-cum-Application Form on 09.03.2004, and later submitted it to M/s MCS Ltd. along with a payment of Rs.1,50,000/- covered by four separate bank drafts dt.09.03.2004 drawn on the United Bank of India, Guwahati Branch in favour of the petitioners.

6) He contended that the petitioners and the respondents No.2 to 4 received the Bid-cum-Application Form, but they did not allot the requisite number of shares, and though he had initiated communications with them, he received no response.

7) He therefore contended that the inaction on the part of the petitioners and the respondents No.2 to 4 amounts to deficiency in service, and he had suffered loss and harassment.

8) He got issued a notice through his lawyer on 05.07.2005 demanding the petitioners and the respondents No.2 to 4 to allot 200 equity shares of the petitioners within 30 days from the date of receipt of the notice, but did not receive any communication.

9) He therefore filed a complaint CC 61 of 2006 under Section 12 of the Consumer Protection Act, 1986 (for short 'the Act') seeking allotment of equity shares to the extent of 200 numbers, interest over the amount of Rs.1,50,000/- @ 9% per annum from 09.03.2004, and compensation to the extent of Rs.50,000/- as well as cost of the proceeding.

10) The Govt. of India (second respondent) did not file any response to the complaint, and was made *ex parte*.

The stand of the ONGC (petitioners)

11) The petitioners, who were arrayed as OP No.2 in the complaint, opposed the contention of the first respondent in the complaint, and contended that there was no privity of contract between him and them regarding the alleged transaction, and that the first respondent did not come within the purview of the term “*consumer*” as prescribed under Section 2(1)(d) of the Act.

12) It was contended that the petitioners cannot be held liable for the responsibilities assigned to M/s MCS Ltd. by the second respondent in terms of the letter dt.23.01.2004 issued by the second respondent, and that the grievance of the first respondent was only against M/s MCS Ltd., and the complaint therefore should be dismissed against the petitioners.

13) It was contended that according to the Bid-cum-Application Form, any dispute arising out of the offer will be subject to the jurisdiction of the appropriate Court in New Delhi, and so the District Consumer Disputes Redressal Forum, West Tripura, Agartala (for short ‘the District Forum’) had no jurisdiction, and only the appropriate Court in New Delhi would have jurisdiction.

14) It was also stated that the petitioners had taken up the matter with M/s MCS Ltd. on behalf of the first respondent to get redress, and such action cannot be construed to mean that petitioners having any responsibility for allotment of shares or refund of money to the first respondent.

15) According to them, M/s MCS Ltd. was appointed as Registrar in respect of the issue of shares, and to manage all activities regarding

disinvestment exercise, and the petitioner No.1 had no role in receiving money or allotment of shares thereto.

The judgment of the District Forum

16) By judgment dt.28.03.2011, the District Forum allowed the complaint.

It held that since the first respondent had paid the value of 200 specific number of shares to be allotted in petitioner No.1 company by the petitioners and other respondents, the first respondent has to be treated as a “consumer” for all intents and purposes.

It rejected the plea of the petitioners that they have no responsibility in respect of allotment of shares, and that the responsibility was only with M/s MCS Ltd., which was the Registrar regarding allotment of shares.

It held that the petitioners were required to work in close coordination with the Joint Coordinators and ONGC as per the letter dt.23.01.2004 addressed by the Ministry of Disinvestment, Government of India written to M/s MCS Ltd and so, the petitioners cannot shirk their responsibility in respect of allotment of shares to the first respondent, who had submitted Bid-cum-Application Form as per the offer made by the Government of India.

The District Forum concluded that the offer was made by the Government of India, Ministry of Disinvestment and the petitioners and other respondents were responsible for allotment of shares to the first respondent on receipt of the Bid-cum-Application Form, and also receipt of the amount

towards price of shares, and since they had failed to allot the requisite numbers of share, there was a deficiency of service on their part.

17) It therefore directed the petitioners and the other respondents to allot 200 shares in the name of the first respondent within 30 days with all benefits from the date of submission of the Bid-cum-Application Form, or to refund the amount within 30 days with 12% interest thereon from the date of presentation of the Bid-cum-Application. It also directed the petitioners and the other respondents to pay compensation of Rs.1,00,000/- to the first respondent along with litigation cost of Rs.1,500/- with a default clause stating that in the event of failure of allotment of shares, payment should be made as aforesaid, and in the event of failure to make the payment, interest should be paid @15% per annum. It held that the petitioners and the other respondents were liable jointly and severally to satisfy the order passed by it.

18) Challenging the same, the petitioners filed Appeal Case No.F.A.-23/2011 before the State Consumer Disputes Redressal Commission, Tripura ('the State Commission' for short).

The Decision of the State Forum

19) By judgment dt.03.04.2012, the State Commission dismissed the appeal.

20) It held that the petitioners were required to work in close cooperation with the Director (Finance), ONGC and others, but neither M/s MCS Ltd., nor the petitioners could perform accordingly, and they had failed to allocate the shares after receiving Rs.1,50,000/- through four bankers cheques from the first respondent.

21) It held that since the petitioners had their office in Tripura, the District Forum derived its jurisdiction under Section 11(2)(A) of the Act, and that similar view had been expressed by it in F.A. 01 of 2009 and F.A. 22 of 2011.

22) It held that since the money was received by M/s MCS Ltd. on behalf of the Government of India, it was obligatory on its part to allot the requisite number of shares; there is no clear demarcating line between Government of India, M/s MCS Ltd. and the petitioners as it is clearly on record that more than 84.14% of shares were held by Government of India, which wanted to disinvest 10% of its shares.

23) It also recorded that the first respondent had deposited four cheques on the United Bank of India, Guwahati for an amount of Rs.1,50,000/- in favour of the petitioners, which was received by M/s MCS Ltd., and so the liability of allocating the shares in favour of the first respondent cannot be shifted by one authority to the other; and all three of them were liable to ensure that the requisite number of shares were transferred to the first respondent, or the money with interest, as directed by the District Forum, should be returned. It also directed the petitioners to pay cost of Rs.25,000/- to the Legal Aid Account of the State Commission.

24) This was questioned by the petitioners by filing Revision Petition No.2411 of 2012 before the National Commission.

The decision of the National Commission

25) By judgment dt.08.07.2025, the said Revision was also dismissed.

26) In the Revision, the petitioners had relied upon an order dt.15.03.2024 of the National Forum in *Company Secretary, ONGC v. Ratna Rani Deb & Others*¹, and two judgments i.e. *Baidyanath Mondal v. Kanahaya Lal Rath*², and *Morgan Stanley Mutual Fund v. Kartick Das*³ in support of their contention that if the transaction was commercial in nature, then the complainant is not a “consumer”.

27) The National Commission rejected the said contention stating that the judgments in *Baidyanath Mondal* (2 supra) and *Morgan Stanley* (3 supra) cannot apply because it was not a fresh public offer wherein the shares can be described as “future goods”, but it was an admitted fact that the shares which were already held by the Government of India, were being offered to public for acquisition by them as per the disinvestment scheme.

It held that the shares were very much “existing goods” within the meaning of Sale of Goods Act, 1930 and so the transaction is for purchase of goods wherein even after payment of “price” as prescribed, the goods were not delivered as promised. It also held that there is no evidence on record to establish that the proposed investment by the first respondent was for any trading or commercial purpose or activity. It therefore held that the first respondent is a “consumer” under Section 2(1)(d) of the Act.

28) In *Ratna Rani Deb* (1 supra), a single member of the National Commission had taken a view that it is only the responsibility of the Registrar to do the work of allotment of share, and the ONGC, which was the petitioner therein, was not directly involved in the said process, and it was for the Registrar to explain why the shares were not issued to the complainant, or why

¹ RP/2410/2012

² 2022 SCC OnLine NCDRC 62

³ (1994) 4 SCC 225

the amount was not refunded in case the shares were not allotted. It took the view that deficiency of service is totally established against the Registrar, and the ONGC cannot be held responsible for deficiency of service, and had granted relief to the petitioners (ONGC in that case).

29) But the National Commission did not agree with the judgment in ***Ratna Rani Deb*** (1 supra) observing that the Government of India, though impleaded through Director, Ministry of Petroleum and Natural Gas, had accepted the findings of the District Forum and the consequent joint liability, and there is a specific finding of the State Commission that M/s MCS Ltd. was appointed as a Registrar by Government of India for share allocation and processing of applications, and it had to work in close coordination with the Director (Finance) of the petitioners; and all the opposite parties including ONGC were closely connected; and therefore had rightly been found to be guilty of deficiency in service for non-allocation and non-refund of amount with regard to application for allotment, which was made by the first respondent.

30) It observed that in the peculiar facts of the case, the said finding of the State Commission cannot be overturned without strong basis, and irrefutable perversity in the concurrent findings.

31) It also noted that the first respondent had deposited Rs.1.5 lakh with M/s MCS Ltd. in the ESCROW account of the petitioners-ONGC, and neither the shares had been allotted, nor the amount had been refunded and that M/s MCS Ltd. had worked as a facilitator in achieving the joint objective of Union of India and ONGC.

32) After perusal of the scope of work of M/s MCS Ltd. as per the letter dt.23.01.2004, it agreed with both the District Forum and the Station Commission that the Registrar M/s MCS Ltd. was appointed by Government of India, and was required to work in close coordination with ONGC, and the scope of work assigned includes pre-offer and post-offer activities including handling of investor complaints; and the finding of deficiency in service on the part of the agent/facilitator - M/s MCS Ltd. without a concurrent and corresponding liability of the principal/beneficiary i.e. the petitioners, who closely worked with M/s MCS Ltd., is not possible in the facts of the case; more so when the Government of India had accepted the joint liability by avoiding to contest the District Forum's order.

33) It also held that the Principal i.e. the petitioners were equally, if not more, liable for deficiency of service of the agent, unless the agent had acted illegally or beyond the apparent scope of authority.

34) Challenging the same, this Revision is filed.

Consideration by the Court

35) The findings of the District Forum that the petitioners along with the Registrar and the Government of India were jointly liable, had been accepted by the Government of India, which had not challenged the said finding before the State Commission.

36) The District Forum, the State Commission and the National Commission have based these findings on an interpretation of the letter dt.23.01.2004 issued by the Government of India to M/s MCS Ltd. that the latter is an agent/facilitator for the petitioners; that the first respondent had deposited Rs.1.5 lakh with M/s MCS Ltd. in the ESCROW account of the

petitioners; that the petitioners, having received the same, ought to have either allotted the shares to the first respondent, or refunded the said amount.

37) They had all held that the petitioners had to work in close coordination with M/s MCS Ltd. and the Government of India, and it is not possible to make only the agent/facilitator - M/s MCS Ltd. liable without making the petitioners and the Government of India also jointly liable.

38) We agree with the reasons assigned by National Commission, State Commission and the District Forum and find no perversity or error of jurisdiction in their orders.

39) It is settled law that jurisdiction under Article 227 of the Constitution of India to review findings of fact is extremely limited.

40) In *Estralla Rubber v. Dass Estate (P) Ltd.*⁴, the Supreme Court had held that the exercise of power under Article 227 involves a duty on the High Court to keep inferior courts and tribunals within the bounds of their authority, and to see that they do their duty expected or required of them in a legal manner; the High Court is not vested with any unlimited prerogative to correct all kinds of hardship or wrong decisions made within the limits of jurisdiction of the subordinate courts or tribunals; and exercise of this power and interfering with the orders of the courts or tribunals is restricted to cases of serious dereliction of duty and flagrant violation of fundamental principles of law or justice, where if the High Court does not interfere, a grave injustice remains uncorrected.

41) It also held that the High Court, while acting under Article 227, cannot exercise its power as an Appellate Court or substitute its own judgment

⁴ (2001) 8 SCC 97

in place of that of a subordinate court to correct an error, which is not apparent on the face of record; and the High Court can set aside or ignore the findings of fact of an inferior court or tribunal, if there was no evidence at all to justify or the finding is so perverse, that no reasonable person can possibly come to such a conclusion, which the court or tribunal has come to.

42) Similar view has also been expressed in the case of *Garment Craft v. Prakash Chand Goel*⁵.

43) We are unable to find any error of the nature which warrants interference in exercise of our power under Art.227 of the Constitution of India. Therefore, we do not deem it appropriate to interfere with the order of the National Commission in Revision Petition No.NC/RP/2411/2012 dt.08.07.2025.

44) The instant Revision is, therefore, dismissed with cost of Rs.20,000/- to be paid by the petitioners to the High Court Legal Services Committee, High Court of Tripura, Agartala within 4(four) weeks.

45) Pending application(s), if any, shall stand disposed of.

(BISWAJIT PALIT, J)

(M.S. RAMACHANDRA RAO, CJ)

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⁵ (2022) 4 SCC 181