

IN THE HIGH COURT OF JUDICATURE AT PATNA

Letters Patent Appeal No.746 of 2014

IN

Civil Writ Jurisdiction Case No. 1423 of 2014

- =====
1. Indian Oil Corporation Ltd., Bihar State Office, 5th Floor, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chowk, Patna, District-Patna through its General Manager.
 2. Deputy General Manager, Indian Oil Corporation Ltd., Bihar State Office, 5th Floor, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chowk, Patna, District-Patna
 3. Senior Divisional Manager (Retail Sales), Begusarai Divisional Office, Indian Oil Corporation Ltd. (MD), P.O. - Barauni Oil Refinery, District - Begusarai - 851114.
 4. The Assistant Manager (Retail Sales), Begusarai Sales Area, Indian Oil Corporation Ltd. (MD), Begusarai Divisional Office, P.O. - Barauni Oil Refinery, District - Begusarai - 851114.

.... Appellant/s

Versus

1. Smt. Asha Lohia, wife of Sri Sidharth Lohia, Resident of Village - Hasanpur, Surat, P.S. - Patory, District - Samastipur, proprietor of the firm namely M/s Satyanarain Fuels,situated at Village - Shahpur Undi, P.S. - Patory, District - Samastipur.

.... writ petitioner -Respondent 1st Set..

2. The Union of India through the Secretary, Ministry of Petroleum AND Natural Gas, Shashtri Bhawan, New Delhi.

.... respondent no.1-Respondent 2nd Set/

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Appearance :

For the Appellant/s : Mr. K. D. Chatterjee, Senior Advocate

Mr. Anil Kumar Sinha, Advocate

For the Respondent No.1 : Mr. Gautam Kejriwal, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

And

HONOURABLE MR. JUSTICE SUDHIR SINGH

ORAL JUDGMENT

(Per: HONOURABLE THE CHIEF JUSTICE)

Date: 10-07-2015

This appeal is preferred by the Indian Oil Corporation Limited, feeling aggrieved by the order dated 02.04.2014 passed by the learned Single Judge in CWJC No.1423 of 2014.

The facts, in brief, are as under:



The 1st respondent was appointed as the dealer to run a petroleum outlet, by the appellants, through an agreement dated 28.06.2013. The dealership, however, was terminated through the proceedings dated 05.03.2014 on the ground that the 1st respondent made an incorrect statement of fact as regards her relations having been appointed as dealer of petroleum outlet. It was alleged that the husband of the 1st respondent was a dealer of Essar Oil Limited, at a different place.

The writ petition was filed by the 1st respondent challenging the termination of order dated 05.03.2014. A prayer was also made for stay of the operation of the proceeding dated 05.03.2014. On 02.04.2014, the learned Single Judge dealt with I.A.No.2179 of 2014 filed by the 1st respondent seeking permission to amend the prayer in the writ petition as well as prayer for interim orders. The appellants sought time to file counter affidavit, and time was, accordingly, granted. As regards, the prayer for interim order, learned Single Judge directed that until further orders, the impugned order dated 05.03.2014 shall remain stayed. This appeal is preferred against the order of stay.

Sri K. D. Chatterjee, learned senior counsel for the appellants submits that interim order has the effect almost annulling the order of termination, and time and again, the Courts have been

taking the view that in matters of this nature, interim orders, having the effect of restoring the dealership, can not be passed. Other grounds are also urged.

Sri Gautam Kejriwal, learned counsel for the 1st respondent, on the other hand, submits that reluctance on the part of the courts to restore dealership as an interim measure is only where the dealership is cancelled on the grounds of adulteration of products or under measurement, and in the instant case, the dealership was cancelled just on hyper technical and non-existent ground.

The dealership of the 1st respondent herein has been cancelled only on the ground that her husband has been granted dealership by another Oil Company. There is a serious dispute between the parties as to whether Essar Oil Limited comes within the scope of the expression 'Oil Company' employed in the brochure. According to the writ petitioner, the said expression takes into its fold, only the four State owned companies and not private ones. This, however, is a matter to be dealt with at the stage of hearing of the writ petition.

We would have certainly interfered with the interim order, had it been a case, where the licence is cancelled on the allegation of adulteration of petroleum products. There is no such allegation. The question as to whether the 1st respondent has incurred

disqualification and the statement made in her application is correct or not, needs to be addressed with reference to the relevant guidelines as well as interpretation placed upon it.

We are of the view that this is a case in which the interim order can be continued and the writ petition itself can be disposed of at the earliest. It is brought to our notice that the pleadings are complete.

Therefore, we dispose of the appeal upholding the order under challenge, but requesting the learned Single Judge, which has the provision to hearing the writ petition of this category, to dispose of the same within two months. There shall, however, be resumption of supply of petroleum products within one week from today.

Interlocutory application, if any, shall stand disposed of. There shall be no order as to costs.

(L. Narasimha Reddy, CJ)

(Sudhir Singh, J)

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