

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1228 of 2015

- 1. M/s Walraj Service Centre A Partnership Firm Duly Registered Under The Relevant Provisions Of The Partnership Act, 1932 Acting In The Premises Through Its Partner Smt. Khalida Afaque, Wd/o Late Afaque Mohammad, Aged About 65 Years R/o Green Park, Jarhabhata, Bilaspur, (Chhattisgarh)
- 2. Smt. Khalida Afaque Wd/o Late Afaque Mohammad Aged About 65 Years Partner- M/s Walraj Service Station R/o Green Park, Jarhabhata, Bilaspur, (Chhattisgarh) Civil & Revenue District Bilaspur, (Chhattisgarh)

---- Petitioner

Versus

- 1. State Of Chhattisgarh Through The Secretary, Ministry Of Food & Civil Supplies, Mahanadi Bhawan, Mantralaya, Naya Raipur, District Raipur, (Chhattisgarh)
- 2. The Collector (Food Department), District Bilaspur, (Chhattisgarh)
- 3. The Sub Divisional Officer, (R) Bilaspur, (Chhattisgarh)
- 4. Hindustan Petroleum Corporation Ltd. Through Its Area Manager, Mandir Manzil, Medical College Road, Raipur, (Chhattisgarh)
- 5. Smt. E. Kasturi Rao Wd/o Late E. Ashok Rao Aged About 70 Years R/o Narmada Nagar, Mangla Chowk, Bilaspur, Tahsil & District Bilaspur, (Chhattisgarh)
- 6. Smt. A Vinita Prasad W/o Shri A. Venu Prasad, Aged About 44 Years
- 7. Smt. P. Nandita W/o Shri P.Harish Aged About 42 Years
- 8. Smt. K. Ranjita W/o Shri K. Fanindranath Aged About 39 Years

Respondents 6 to 8 Resident of Narmada Nagar, Mangla Chowk, Bilaspur, District Bilaspur, (Chhattisgarh)

---- Respondent

For Petitioners	Mr. B.P. Sharma, Advocate
For Respondent/State	Mr. Shashank Thakur, Government Advocate
For Respondent No.4	Mr. Ali Asgar, Advocate
For Respondents 5 to 8	Mr. Manoj Paranjpe, Advocate

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

Heard finally with the consent of learned counsel for the parties.

(2) Petitioner No.1 is a licensee of Petroleum products having been issued such license under the C.G. Motor Split and High Speed Diesel Oil (Licensing and Control) Order, 1980 (in short "the Control Order, 1980"). The petitioner is a dealer for retail distribution of petroleum products supplied to it by Hindustan Petroleum Corporation Limited (in short "HPCL"). The lease for the land over which the petroleum outlet is situated was leased out to the HPCL by respondents 5 to 8, which term includes their predecessor. The lease was in operation till 31.12.2011. The lessor moved an objection/complaint before the Licensing Authority that the petitioner is operating the petroleum outlet from the land, lease of which has already expired.

(2) On the said complaint, HPCL was issued notice with a copy to the petitioner to explain their position. The HPCL replied to the notice, however, the petitioner did not submit any reply, therefore, the impugned order has been passed cancelling the dealer's license No.15/B-1994 granted to the petitioner under the Control Order, 1980.

(4) Mr. Sharma, learned counsel for the petitioner, would submit that the impugned order has been passed in violation of the principles of natural justice, therefore, it is not sustainable.

(5) Per contra, Mr. Thakur, learned counsel for the State would submit that the notice was issued to HPCL with copy to the petitioner, therefore, the petitioner had prior notice of the intended action.

(6) Mr. Paranjpe, learned counsel for respondents 5 to 8, would submit that the lease of the land over which the petroleum outlet is situated having already expired neither the HPCL nor its agent i.e. the petitioner is entitled to run the petroleum outlet from the said premises and the authorities have not committed any illegality by

cancelling the license.

(7) Except for the notice issued to the HPCL with copy to the petitioner, there is no other communication or notice addressed to the petitioner. The notice (Annexure R/2) filed along with the return of the State would also not state that the license would be cancelled. The operating part of the notice issued to the HPCL would recite that the Company shall produce required document for taking decision in the matter of renewal of license, but it nowhere says that in absence of any reply to the notice by the HPCL, the license granted to the petitioner would be cancelled. It would clearly appear that the petitioner had no notice as envisaged under Rule 11 of the Control Order, 1980 before passing any order regarding cancellation of license. The impugned order is, therefore, set-aside on this ground alone.

(8) The Licensing Authority would be at liberty to draw proceedings for cancellation/renewal of license after giving proper opportunity of hearing to the parties concerned including the complainant.

(9) At this stage, Mr. Paranjpe, learned counsel for respondents 5 to 8 would submit that some time limit may be fixed for completion of proceedings which may be drawn by the Licensing Authority.

(10) It is expected of the Licensing Authority to expedite the matter and take decision at the earliest.

(11) The writ petition is allowed to the extent indicated above.

Sd/-

Judge

(Prashant Kumar Mishra)