

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K. NARENDRA

THURSDAY, THE 30TH DAY OF JULY 2015/8TH SRAVANA, 1937

WP(C).No. 34748 of 2010 (P)

PETITIONER:

GOPALAKRISHNAN, S/O. SANKARAN,
AGED 74 YEARS, PARASURAMAPURAM,
AMBIKAPURAM, PALAKKAD - 678 011.

BY ADV. SRI. RAJESH SIVARAMANKUTTY

RESPONDENTS:

1. CHIEF AREA MANAGER,
INDIAN OIL CORPORATION LTD., 2ND FLOOR, P.M.K. TOWERS
CIVIL STATION POST, WAYANAD ROAD, KOZHIKODE - 673 020.
2. M/S. YEMKAY GAS AGENCIES,
REP. BY ITS MANAGING PARTNER, COLLEGE ROAD
PALAKKAD - 678 001.

R1 BY ADV. SRI. M. GOPIKRISHNAN NAMBIAR
BY ADV. SRI. P. GOPINATH
BY ADV. SRI. P. BENNY THOMAS
BY ADV. SRI. K. JOHN MATHAI
BY ADV. SRI. JOSON MANAVALAN
BY ADV. SRI. KURRYAN THOMAS
BY SRI. E. K. NANDAKUMAR
R2 BY ADV. SRI. MATHEWS K. UTHUPPACHAN
R2 BY ADV. SRI. TERRY V. JAMES

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 30-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN W.P.(C)No.34748/2010

PETITIONER'S EXTS:

- EXT.P1: COPY OF PHOTOGRAPH SHOWING THE TWO KITCHENS IN THE RESIDENTIAL BUILDING.
- EXT.P2: COPY OF LETTER DT.27.7.2010 SENT BY THE 2ND RESPONDENT TO THE PETITIONER.
- EXT.P3: COPY OF REPLY DT.11.8.10 SENT TO THE 2ND RESPONDENT.
- EXT.P4: COPY OF LETTER DT.3.9.10 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.
- EXT.P5: COPY OF REPLY NOTICE DT.23.9.10 SENT ON BEHALF OF THE PETITIONER TO THE 1ST RESPONDENT.
- EXT.P6: COPY OF LETTER DT.1.0.2010 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

RESPONDENTS' EXTS:

- ANNEXURE R1(A): COPY OF LIQUIFIED PETROLEUM GAS (REGULATION OF SUPPLY AND DISTRIBUTION)ORDER 2000, AS AMENDED IN SEPTEMBER, 2009 DT.10.9.04.
- ANNEXURE R1(B): COPY OF LIQUIFIED PETROLEUM GAS (REGULATION OF SUPPLY AND DISTRIBUTION) AMENDMENT ORDER, 2000 DT.26.4.2000.
- ANNEXURE R1(C): COPY OF COMMUNICATION DT.23.9.09 FROM THE MINISTRY OF PETROLEUM AND NATURAL GAS TO THE OIL MARKETING COMPANIES.
- ANNEXURE R1(D): COPY OF CIRCULAR NO.LPG/SALES/PJ/01 DT.30.11.2009.
- ANNEXURE R1(E): COPY OF LIQUIFIED PETROLEUM GAS (REGULATION OF SUPPLY AND DISTRIBUTION) (AMENDMENT) ORDER, 2014 DT.14.10.2014.

TRUE COPY

P.S.TO JUDGE

dsn

ANIL K. NARENDRA, J.

W.P.(C) No.34748 of 2010

Dated this the 30th day of July, 2015

JUDGMENT

The petitioner has filed this writ petition seeking a writ of mandamus commanding the respondents not to terminate or cancel the LPG connections to Consumer Nos.84250 and 84290 registered with the 2nd respondent gas agency. He has also sought for a writ of certiorari to quash Exts.P2, P4 and P6.

2. Going by the averments in the writ petition, the petitioner who is a retired Senior Accounts Officer from the Department of Defence has been allotted with a domestic LPG connection with Consumer No.84250. The said LPG connection was originally allotted while he was in service at Chennai. On retirement, he got the aforesaid connection transferred and the same is now registered with 2nd respondent gas agency.

3. According to the petitioner, his son G.Srikumar applied for separate domestic LPG connection and he was allotted with another connection with Consumer No.84290 and that, the connection so obtained by his son is being used regularly in

another portion of the house. In other words, there are two kitchens in the very same residential building, with the petitioner and his son using separately. It is averred in the Writ Petition that, the need for separate kitchen occasioned on account of differences of opinion between the petitioner and his son on variety of matters including the type of food to be consumed. Relying on Ext.P1 photographs, the petitioner would contend that two separate kitchens are there in the very same residential building.

4. The 2nd respondent by Ext.P2 letter informed the petitioner as well as his son that, there are two domestic LPG connections in the name of the petitioner and his son with Consumer Nos.84250 and 84290 respectively, in violation of Clause 3 of the Liquefied Petroleum Gas (Regulation of Supply and Distribution) Order, 2000 (hereinafter referred to as 'the Order') as per which a person having a connection for LPG under the public distribution system shall not possess more than one connection of LPG granted under the public distribution system. Since the petitioner and his son are having multiple LPG connection in violation of the aforesaid provisions, the 2nd

respondent by Ext.P2 letter informed that they will block the second connection with Consumer No.84290. The petitioner and his son were requested to contact the 2nd respondent within a period of seven days of receipt of Ext.P2 for terminating the said connection and for refund of security deposit.

5. On receipt of Ext.P2, the petitioner caused to issue Ext.P3 lawyer notice to the 2nd respondent pointing out that, as per Clause 2(b) of the Order, 'consumer' has been defined as a registered person, firm, company, institution, association of persons, co-operative society or organization, who has been granted LPG connection or supply, either in bulk or in cylinder, by a distributor or a Government Oil Company or a parallel marketer. Therefore, the petitioner is one person and his son is another person and as such, the provisions under Clause 3 of the Order shall have no application. Hence, the 2nd respondent was requested to drop all further proceedings against the petitioner.

6. Thereafter, the petitioner received Ext.P4 communication dated 03.09.2010 of the 1st respondent Oil Company, by which he was informed that, as per the Gazette notification received from the Ministry of Petroleum and Natural

Gas dated September, 2009, 'multiple connection' is the number of connection in the same name and address and there should be only two cylinders in a family/household. Therefore, the petitioner was requested to retain one connection with DBC (Double Bottle Cylinder) facility and surrender the other connection and take back the security deposit.

7. On receipt of Ext.P4, the petitioner caused to issue Ext.P5 lawyer notice dated 23.09.2010, which was replied by Ext.P6 reply dated 1.10.2010 addressed to the petitioner as well his son, stating that the LPG Control Order has been amended and the same has been conveyed by the Ministry of Petroleum and Natural Gas by its letter dated 23.09.2009. The aforesaid Order permits only one domestic connection for one household. Therefore, the 1st respondent is requesting the customers to surrender the additional connection and the distributors are advised to send letters to such customers. Hence the petitioner and his son were asked to surrender one connection and take back the security deposit. It is aggrieved by Exts.P2, P4 and P6 the petitioner has approached this Court in this writ petition seeking various reliefs.

8. A statement has been filed on behalf of the 1st respondent contending, inter alia, that in view of the Liquefied Petroleum Gas (Regulation of Supply and Distribution) Order, 2000, notified vide Annexure R1(b) notification dated 26.4.2000, as amended by the Liquefied Petroleum Gas (Regulation of Supply and Distribution) Amendment Order, 2009, which was notified vide Annexure R1(a) notification 10.9.2009, it is not legally permissible to have more than one subsidised LPG connection for a household. In view of the amendment so made, the Ministry of Petroleum and Natural Gas, vide Annexure R1(c) communication dated 23.9.2009 directed all the Oil Marketing Companies to enforce strictly the aforesaid stipulation, i.e., one LPG connection for one household (instead of per person earlier), to rule out multiple connection in any household. In order to effectively implement the amendment so made, Annexure R1(d) Circular No.LPG/Sales/PJ/01 dated 30.11.2009 was issued prescribing the steps that has to be taken through the distributors, to rule out multiple connections in any household. Later, by Liquefied Petroleum Gas (Regulation of Supply and Distribution) Amendment Order, 2014, which was notified vide Annexure R1(e)

notification 14.10.2014, the word 'household' has been substituted with 'person or household'. Relying on Annexure R1 (e) notification, the 1st respondent would contend that, no household is entitled to have more than one LPG connection under the public distribution system and they are required to surrender the extra LPG connection they have. In view of the amendment so made, the existing extra LPG connections, even if they were granted before the said amendment, are liable to be surrendered. Therefore, the 1st respondent would contend that the petitioner is not entitled for the reliefs prayed for.

9. Heard arguments of the learned counsel for the petitioner, the learned Standing Counsel for the 1st respondent and the learned counsel appearing for the 2nd respondent.

10. The sole issue that arises for consideration in this Writ Petition is as to the legality or otherwise of the demand made in Exts.P2, P4 and P6 to surrender the additional LPG connection under the public distribution system.

11. Going by the averments in the Writ Petition, the petitioner and his son are residing in the very same house. The petitioner was allotted with one subsidised LPG connection under

public distribution system with Consumer No.84250 about 25 years back, whereas, his son was allotted with another subsidised LPG connection under public distribution system with Consumer No.84290 about ten years back. According to the petitioner, there is some difference of opinion between the petitioner and his son on variety of matters, including the type of food consumed, which necessitated two kitchens in the very same residential building, and the petitioner's son is regularly using the said LPG connection in another portion of the building. In order to substantiate the said contention, the petitioner has also produced the photographs of the two kitchens as Ext.P1.

12. But, even a cursory look at Ext.P1 photographs would unfold the fallacy of the case put forward by the petitioner that, there are two kitchens in the very same residential building. In the first photograph, sooting from gas appliance (black stains) are seen on the kitchen wall just above the LPG stove indicating regular cooking of food. On the other hand, in the second photograph no such black stains are seen on the wall just above the LPG stove, which indicates that no cooking of food takes place in the so called 'second kitchen'. Therefore, the materials

on record make it explicitly clear that, there is absolutely no merit in the case put forward by the petitioner that the LPG connection with Consumer No.84290 in the name of his son is being used regularly in the second kitchen in the very same residential building.

13. It is pertinent to note that Exts.P2 and P4 letters issued by the 1st respondent are in respect of Consumer Nos.84250 and 84290 in the name of the petitioner as well as his son. By the aforesaid letters, they were requested to surrender the multiple connection and to retain the oldest one. The aforesaid communication was followed by Ext.P6 reply dated 1.10.2010 of the 1st respondent addressed to the petitioner and his son asking them to surrender the additional connection and to take back the security deposit. When the additional connection in the residential premises in question is that allotted to the petitioner's son with Consumer No.84290, the petitioner's son is the person who is really aggrieved by Ext.P6, who has not chosen to challenge Ext.P6. Instead, the petitioner has approached this Court seeking various reliefs including a writ of mandamus commanding the respondents not to terminate/cancel the LPG

connections to Consumer Nos.84240 and 84290. Since the specific direction in Ext.P6 is to surrender the additional connection, the effect of the aforesaid communication is that, in case the additional connection in the name of the petitioner's son with Consumer No.84290 is not surrendered, the said connection will be blocked by the 2nd respondent. Since the petitioner herein is not the consumer in respect of the aforesaid LPG connection, he has absolutely no locus standi to challenge Exts.P2, P4 and P6.

14. Moreover, as contended by the 1st respondent, after the amendment made to the Liquified Petroleum Gas (Regulation of Supply and Distribution) Order, 2009, it is not legally permissible to have more than one subsidised LPG connection for a household. It was in order to rule out multiple connection in any household, the Ministry of Petroleum and Natural Gas has issued Annexure R1(c) communication directing all the Oil Marketing Companies to enforce strictly the aforesaid stipulation, which was followed by Annexure R1(d) Circular dated 30.11.2009. Later, by Liquified Petroleum Gas (Regulation of Supply and Distribution) Amendment Order, 2014, notified vide

Annexure R1(e), the word 'other household' has been substituted with 'person or household'. After Annexure R1(e) notification, no household is entitled to have more than one LPG connection under the public distribution system and they are required to surrender the extra LPG connection, which they have. Therefore, there is absolutely no illegality in the stand taken by the respondents that the additional connection in the name of the petitioner's son with Consumer No.84290 has to be surrendered.

In the result, the Writ Petition fails and the same is dismissed.

No order as to costs.

Sd/-
ANIL K. NARENDRA,
JUDGE

JV