

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2015

CORAM

THE HONOURABLE Mr. JUSTICE T.S. SIVAGNANAM

W.P.Nos.307, 2168, 13147 and 14910 of 2012
and

M.P.Nos.1 of 2012 in W.P.Nos.307, 2168, 13147 and 14910 of 2012
and M.P.No.2 of 2012 in W.P.No.14910 of 2012

W.P.No.307 of 2012

Vijayalakshmi ... Petitioner

vs.

1.The Chief Divisional Retail Sales Manager,
Indian Oil Corporation Ltd.,
Chennai Divisional Office,
No.500, Anna Salai, Teynampet,
Chennai- 600 018.

2.The General Manager (Tamilnadu & Pondicherry),
Indian Oil Bhavan,
No.139, Nungambakkam High Road,
Chennai-600 034, Tamil Nadu.

3.M.Poongavanam

4.P.Komesh Kumar ... Respondents

W.P.No.2168 of 2012

Vijayalakshmi ... Petitioner

vs.

The Chief Divisional Retail Sales Manager,
Indian Oil Corporation Ltd.,
Chennai Divisional Office,
No.500, Anna Salai, Teynampet,
Chennai- 600 018.

... Respondent

W.P.No.13147 of 2012

Vijayalakshmi ... Petitioner

vs.

1.The Branch Manager,
Indian Overseas Bank,
Vellore Branch,
Vellore, Tamilnadu.

2.The Regional Manager,
Indian Oversea Bank,
Vellore, Tamilnadu.

3.P.Komesh Kumar ... Respondents

W.P.No.14190 of 2012

Vijayalakshmi ... Petitioner
vs.

1.The Chief Divisional Retail Sales Manager,
Indian Oil Corporation Ltd.,
Chennai Divisional Office,
No.500, Anna Salai, Teynampet,
Chennai- 600 018.

2.P.Komesh Kumar ... Respondents

Writ Petition No.307 of 2012 filed under Article 226 of the Constitution of India praying this Court to issue Writ of Mandamus forbearing the respondents 1 and 2 from terminating the petitioner's Retail outlet dealership of MS, HSD, awarded by the Indian Oil Corporation by letter of Intent TNS/R/CHE/VELL-ARCOT dated 03.12.1998, appointment order of dealership dated 19.6.1999, consequently direct the respondent 1 and 2 to continue the supply of Petrol (MS-Motor Sprit) HSD (High Speed Diesel), ALDS Auto LPG, Motor Oil/Grease to the petitioner without any interruption as she is a sole proprietor of M/s.Naveen Kumar Fuels at SF. No.110/2, NH-46 Vellore-Arcot Road, Vellore-9 as per the above said letter of intent, appointment order of dealership.

Writ Petition No.2168 of 2012 filed under Article 226 of the Constitution of India praying this Court to issue Writ of Certiorari to call for the records of the respondent in relating to the impugned order dated 11.01.2012, and quash the same.

Writ Petition No.13147 of 2012 filed under Article 226 of the Constitution of India praying this Court to issue Writ of Mandamus forbearing the respondents 1 and 2 from freezing the petitioner's Current Bank Account No.010302000002983 Indian Overseas Bank, Vellore Branch, without order of the Court, consequently direct the respondents 1 and 2 to permit the petitioner to continue to operate the above said bank account as she is the sole proprietor of M/s.Naveen Kumar Fuels.

Writ Petition No.14190 of 2012 filed under Article 226 of the Constitution of India praying this Court to issue Writ of Certiorarified Mandamus calling for the records pertaining to the 1st respondent's impugned order reference CDR609, dated 13.02.2012 and quash the same in so far as it relates to the condition insisting the petitioner to run the dealership along with the 2nd respondent as a partnership consequently direct the 1st respondent to permit the petitioner to run the dealership as she is a sole proprietor of M/s.Naveenkumar Fuels at S.F.No.110/2, NH-46, Vellore-Arcot Road, Vellore-9 as per the original allotment order dated 19.06.1999 under the defence wing category as she is a war widow.

For Petitioner : Mr.P.R.Thiruneelakandan
in all W.Ps.

For Respondents : Mr.V.Anantha Natarajan
1 & 2 in W.P.307/2012
1st Respondent in
W.P.2168/2012 &
14190/2012

For Respondents
3&4 in W.P.307/2012
and 2nd Respondent : Mrs.S.Radha Gopalan
in W.P.14190/2012
and 3rd Respondent
in W.P.13147/2012

For Respondents
1&2 in W.P.13147 : Mr.F.B.Benjamin George
of 2012

COMMON ORDER

Heard Mr.P.R.Thiruneelakandan, learned counsel appearing for the petitioners and Mr.Anantha Natarajan, learned counsel appearing for the respondents 1 and 2 in W.P.No.307 of 2012; 1st respondent in W.P.Nos.2168 and 14190 of 2012; Mrs.S.Radha Gopalan, learned counsel appearing for the respondents 3 and 4 in W.P.No.307 of 2012; 2nd respondent in W.P.No.14190 of 2012, 3rd respondent in W.P.No.13147 of 2012 and Mr.F.B.Benjamin George, learned counsel appearing for the respondents 1 and 2 in W.P.No.13147 of 2012. Since the parties and the issue arises for consideration are one and same, all the writ petitions were heard together and disposed of by this Common Order.

2. The order impugned in W.P.No.14190 of 2012 is dated 13.12.2012. By the said communication, the petitioner's request for re-constitution of dealership by converting the same into partnership by inducting ***Naveen Kumar** as partner was refused to

be accepted on the ground that as per the policy guidelines of the Corporation/Government of India, reconstitution of partnership can be considered only after 5 years from the date of last reconstitution.

2.1. Since the request was within the period of 5 years, the 1st respondent in W.P.No.14190 of 2012 declined to consider the same. As on date, 5 years period is already over and therefore, there is no bar on the part of the 1st respondent in W.P.No.14190 of 2012 to reconsider the request of the petitioner on merits and in accordance with the guidelines of the Corporation/Government of India.

3. In W.P.No.307 of 2012, the petitioner has sought for issuance of Writ of Mandamus forbearing the respondents 1 and 2 therein from terminating the petitioner's Retail Outlet Dealership of Motor Sprit, High Speed Diesel, Auto LPG, Motor Oil/Grease.

3.1. Admittedly, as on date, the petitioner is running the Retail Outlet. Therefore, W.P.No.307 of 2012 is a pre-mature one.

4. In W.P.No.2168 of 2012, the petitioner has challenged the order dated 11.1.2012 passed by the 1st respondent Corporation stating that they have not received any reply to the show cause notice and thereafter, they were advised to pay the penalty charges.

4.1. At the time of admission of W.P.No.2168 of 2012, an interim order of stay was granted for a limited period and the same has not been extended till date and the matter is pending for consideration.

4.2. In the impugned order dated 11.1.2012, the respondent Corporation has demanded penalty charges. Since the petitioner has not given her explanation to the show cause notice dated 10.10.2011 issued by the 1st respondent Corporation, this Court is of the view that the petitioner can be given one more opportunity to give her explanation to the show cause notice dated 10.10.2011 issued by the respondent Corporation.

5. W.P.No.13147 of 2012 has been filed seeking for Writ of Mandamus forbearing the respondents 1 and 2 therein from freezing the petitioner's Current Bank Account No.010302000002983 without the order of the Court.

5.1. In the light of the orders passed in W.P.No.2168 of 2012, no further orders are required in W.P.No.13147 of 2012 and the same is liable to closed.

6. In the result,

(i) W.P.No.14190 of 2012 is disposed of by directing the 1st respondent to consider the petitioner's request for re-constitution of partnership, after issuing notice to the petitioner as well as the partner to whom, the petitioner proposes

to induct and after affording personal hearing and pass a reasoned order on merits.

(ii) W.P.No.307 of 2012 is closed as pre-mature.

(iii) W.P.No.2168 of 2012 is disposed of by directing the petitioner to submit fresh explanation to the show cause notice dated 10.10.2011 issued by the respondent therein, within a period of four weeks from the date of receipt of a copy of this order by enclosing the copy of the previous explanation dated 19.10.2011 submitted by the petitioner and on receipt of the same, the respondent Corporation shall consider the petitioner's explanation and pass orders on merits and in accordance with law.

(iv) W.P.No.13147 of 2012 is closed, as no further orders are required.

(v) There will be no order as to costs in all the writ petitions.

(vi) All connected Miscellaneous Petitions are closed.

Sd/-

Asst.Registrar (CS II)

Dt.12.2.15

/true copy/

Sub Asst. Registrar

***Corrected as per the order of
this Court dt.19.3.15**

Sd/-

Assistant Registrar

Dated:26.3.15

True Copy

Sub Assistant Registrar

To

1.The Chief Divisional Retail
Sales Manager,
Indian Oil Corporation Ltd.,
Chennai Divisional Office,
No.500, Anna Salai, Teynampet,
Chennai- 600 018.

2.The General Manager
(Tamilnadu & Pondicherry),
Indian Oil Bhavan,
No.139, Nungambakkam High Road,
Chennai-600 034, Tamil Nadu.

***Corrected order to be
substituted to the order
already despatched on 17.2.15**

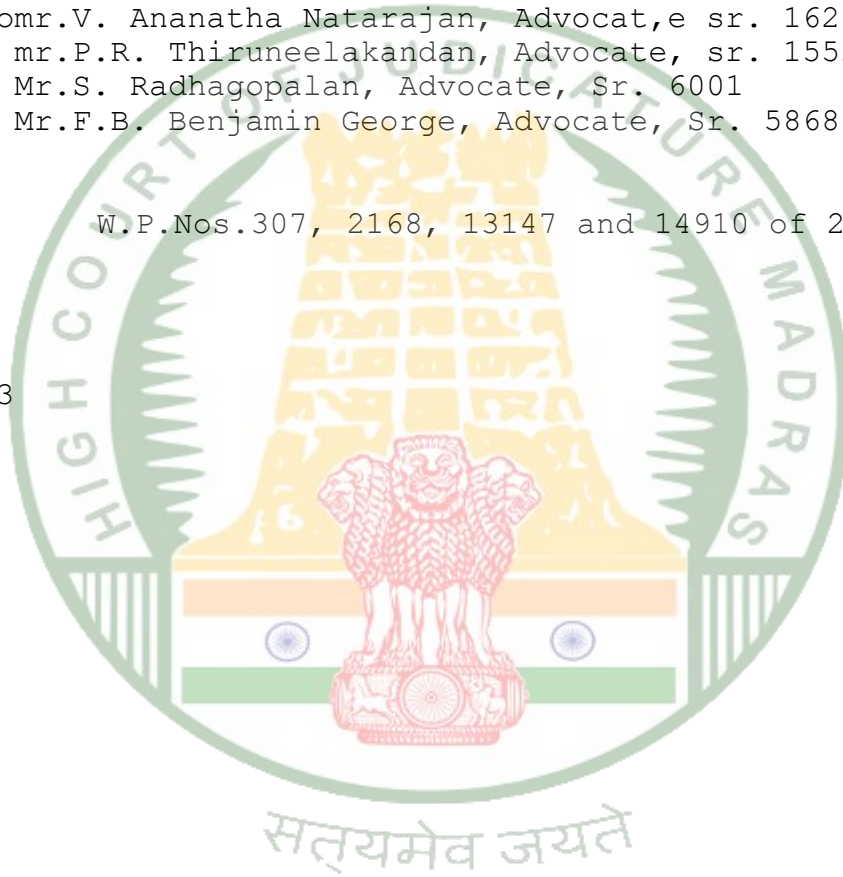
3.The Branch Manager,
Indian Overseas Bank,
Vellore Branch,
Vellore, Tamilnadu.

4.The Regional Manager,
Indian Oversea Bank,
Vellore, Tamilnadu.

2 ccs to Mr.V. Ananatha Natarajan, Advocate, sr. 16219
1 cc to Mr.P.R. Thiruneelakandan, Advocate, sr. 15528
1 cc to Mr.S. Radhagopalan, Advocate, Sr. 6001
1 cc to Mr.F.B. Benjamin George, Advocate, Sr. 5868

W.P.Nos.307, 2168, 13147 and 14910 of 2012

SR (CO)
kk 12/2
krd 26/3



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