

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.2171 of 2014

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Smt. Sushila Kumari W/O Shri Laloo Paswan Resident of Village+P.O.-
Sadullahpur, P.S.- Lalganj, District- Vaishali

.... Petitioner

Versus

1. Indian Oil Corporation Ltd., through its Chairman, Indian Oil Bhawan, G9, Ali Yavar Jung Marg, Badra East, Mumbai- 400051
2. Chairman, Indian Oil Bhawan, G9, Ali Yavar Jung Marg, Bandra East, Mumbai- 400051
3. The Executive Director (Retail Sales), Indian Oil Corporation Ltd., Marketing Division, Indian Oil Bhawan, G9, Ali Yavar Jung Marg, Bandra East, Mumbai- 400051
4. The Director (HR), Indian Oil Corporation Ltd. (Corporate Office), 3079/3, Sadiq Nagar, JB Tito Marg, New Delhi- 110049
5. The Director (P&BD) & Appellate Authority, Indian Oil Corporation Ltd. (Corporate Office), Indian Oil Bhawan, 1, Sri Aurobindo Marg, Yusuf Sarai, New Delhi- 110016
6. The General Manager, Indian Oil Corporation Ltd. Bihar State Office, Lok Nayak Jaiprakash Bhawan, 5th Floor, Dak Bungalow Chowk, Patna
7. The Sr. Divisional Retail Sales Manager, Indian Oil Corporation Ltd., 3A Mauryalok Complex, Dak Bungalow Road, Patna
8. The Asstt. Manager, Retail Sales, Patna III Sales Area, Indian Oil Corporation Ltd., 3A, Mauryalok Complex, Dak Bungalow Road, Patna

.... Respondents

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Appearance :

For the Petitioner : Mr. N.K.Agrawal, Sr. Advocate
Mr. Sanjeet Kumar, Advocate

For the Respondents : Mr. Anil Kumar Sinha, Advocate
Mr. Amlesh Kumar Verma, Advocate
Mr. Ankit Katriar, Advocate
Mr. Abhimanyu Deo, Advocate

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL JUDGMENT

Date: 03-03-2016

Heard learned Senior Counsel for the petitioner and
learned counsel for the Respondent Corporation.

2. The present writ petition has been filed for



quashing the order dated 21.12.2010 passed by the General Manager, Indian Oil Corporation, Bihar State Office, Patna whereby and whereunder the retail outlet dealership of the petitioner has been terminated on the basis of certain irregularities found during inspection conducted by the Assistant Manager (Retail Sales), Patna III Sales Area of Indian Oil Corporation; as also the order dated 14.11.2013 passed by the Director (P&BD) & Appellate Authority, Indian Oil Corporation Ltd. (Corporate Office), New Delhi in the appeal filed by the petitioner whereby and whereunder the appeal has been dismissed; and to restore the retail outlet dealership to the petitioner.

3. Mr. N.K. Agrawal, learned Senior Counsel appearing on behalf of the petitioner, makes a preliminary submission that the impugned order dated 21.12.2010 passed by the General Manager is without jurisdiction and unsustainable in law considering that the matter was heard by his predecessor, who however was transferred. The said order therefore, came to be passed by the successor General Manager



without however, grant of any opportunity to the petitioner of being heard prior to passing of the order. It is further submitted that this aspect of the matter was raised in appeal and the appellate authority has simply observed that the Director (Marketing) being the competent authority for termination in respect of dealers under Scheduled Caste category, and approved the petitioner's termination.

4. Learned counsel for the Respondent Corporation relies on the counter affidavit to oppose the writ petition, but however, could not point out any averment therein to the effect that the successor General Manager had also heard the petitioner before passing the impugned order.

5. It is well settled that the authority passing the order must hear the parties. Admittedly, it was the predecessor General Manager who had heard the petitioner whereas the final order dated 21.12.2010 came to be passed by a new General Manager who had not heard the petitioner. In such circumstances, the impugned order dated 21.12.2010 cannot be sustained in law and so also the impugned appellate order

dated 14.11.2013 which has been passed despite noticing such infirmity as pointed out by the petitioner.

6. In the above view of the matter, both the impugned orders dated 21.12.2010 (Annexure-2) as well as appellate order dated 14.11.2013 (Annexure-1) are hereby set aside and the writ petition is allowed.

7. It is made clear that the matter of termination shall be decided afresh by the General Manager of the Respondent Corporation after grant of opportunity of hearing to the petitioner in accordance with law.

(Vikash Jain, J)

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