

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 22.04.2016

Date of Verdict : 30.06.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.Nos.35322 to 35326 of 2013,
9056 & 9057 of 2014,
3121 & 29110 of 2015 and
W.P.(MD) Nos.17218 to 17223 of 2013

- 1 SRI RAM AGENCIES
HPCL DEALER REP. BY ITS PROP. S.GAJENDRAN
CARRYING ON BUSINESS AT NO.4/50 SUBEDAR
HUSSAIN STREET ROYAPETTAH
CHENNAI-14. ... PETITIONER in WP No.35322 of 2013
- 1 SRI KARTHIGEYAN AGENCY
IOCL DEALER REP. BY ITS PROP. N.S.
KARTHIKEYAN CARRYING ON BUSINESS AT NO.10A
PITTI MUNUSWAMY STREET OLD WASHERMENPET
CHENNAI-21. ... PETITIONER in WP No.35323 of 2013
- 1 RAJALAKSHMI AGENCY
REP. BY ITS PROP. MS.PUSHPALATHA CARRYING
ON BUSINESS AT NO.32-33 BALAJI STREET
KRISHNAMURTHY NAGAR
CHENNAI-118. ... PETITIONER in WP No.35324 of 2013
- 1 M/S.GOLDEN ENTERPRISE
IOCL DEALER REP. BY ITS PROP. T.GANESH
CARRYING ON BUSINESS AT 76/77 ANNAI NAGAR
KILAKKUVADI PERAMBALUR ROAD THURAIYUR
TRICHY DT-621 010. ... PETITIONER in WP No.35325 of 2013
- 1 SRI SAPTHAGIRI AGENCY
HPCL DEALER REP. BY ITS PROP. A.DEVARAJ
CARRYING ON BUSINESS AT NO.15 16 MANALI
AND MADHAVARAM HIGH ROAD KAMARAJAR SALAI
PERIYA MATHUR CH-68 ... PETITIONER in WP No.35326 of 2013

- 1 M/S.DASS AGENCIES IOCL DEALER .
REP.BY ITS PARTNER S.BHAKATAVACHALA REDDIAR
BUSINESS AT NO.3 ERIKKARAI ST SOTHUPAKKAM
VILLAGE CHEYYUR TALUK
KANCHEEPURAM DIST-603 319
... PETITIONER in WP No.9056 of 2013
- 1 A.R.S. NANJUNDA CHETTY AND
SONS IOCL DEALER REP.BY ITS PARTNER N.
RAMESH CARRYING ON BUSINESS AT 93/74-1
VENKATAPPA CHETTY ROAD
SALEM 636 002 ... PETITIONER in WP No.9057 of 2014
- 1 SRI RAM AGENCIES (HIN. PET.
DEALER) REP. BY ITS PROPRIETOR S.GAJENDRAN
NEW NO.37 1ST STREET 4TH CROSS STREET R.
K.NAGAR MANDAVELI
CHENNAI-28. ... PETITIONER in WP No.3121 of 2015
- 2 SRI KARTHIKEYAN AGENCIES
(INDIAN OIL CORPN) REP. BY ITS PROP. N.S.
KARTHIKEYAN 10A PITY MUNUSAMY ST OLD
WASHERMENPET CHENNAI-21.
- 3 SRI JEYANTHI AGENCY (IOC
DEALER) REP. BY ITS PROPRIETOR M.C.
MEYYAPPAN 87 KARANEESWARA POGODA STREET
MYLAPORE CHENNAI-4.
- 4 SELVAM OIL AGENCIES (IOC
DEALER) REP. BY ITS PROPRIETOR A.SUMATHI
151 ANNA NAGAR COIMBATORE ROAD
POLLACHI-642 002.
- 5 K.MARIMUTHU PILLAI SONS
(IOC DEALER) REP. BY ITS PROPRIETOR KMV
BUVANESWARAN 43/D10 BYE PASS ROAD HARUR
DHARMAPURI DISTRICT
- 1 SRI ANNAI AGENCY
HPCL DEALER REP. BY ITS PROPRIETOR S.
NATARAJAN CARRYING ON BUSINESS AT NO.35
SUBBARAO NAGAR MAIN ROAD CHOOOLAIMEDU
CHENNAI-600 094. ... PETITIONERS in WP No.29110 of 2015

SRI JAYANTI'S AGENCY, IOCL DEALER
REP BY ITS PARTNER,
M.C.MEYYAPPAN @ MANICKAM,
SIVAGANGAI DISTRICT.

...PETITIONER IN W.P.(MD)
NO.17218/2013

LAKSHMI AGENCY, IOCL DEALER
REP BY ITS PROPRIETRIX,
K.GEETHANJALI,
TIRUNELVELI-637 003.

...PETITIONER IN W.P.(MD)
NO.17219/2013

ARUL & CO., IOCL DEALER
REP BY ITS PARTNER,
MR.M.RAJARAM,
MADURAI DISTRICT.

...PETITIONER IN W.P.(MD)
NO.17220/2013

JOSEPH TRADING COOPERATION,
IOCL DEALER REP.BY ITS
PARTNER, P.SATHYANATHAN,
TRICHY.

...PETITIONER IN W.P.(MD)
NO.17221/2013

R.M.P.DEVI & CO.,
IOCL DEALER REP.BY ITS
PARTNER,
A.GNANA JEBARAJ,
TIRUNELVELI DISTRICT-627 851.

...PETITIONER IN W.P.(MD)
NO.17222/2013

PRIMIER AGENCY
IOCL DEALER REP BY ITS PARTNER
A-JAISHANKAR,
THIRUNELVELI DISTRICT.

...PETITIONER IN W.P.(MD)
NO.17223/13

VS

1

UNION OF INDIA
REP. BY ITS SECRETARY MINISTRY OF PETROLEUM
AND NATURAL GAS SASTHRI BHAVAN
NEW DELHI.

...RI IN ALL WPS AND WPS (MD)

WEB COPY

- 2 HINDUSTAN PETROLEUM CORPORATION LTD. REP. BY ITS CHAIRMAN & MANAGING DIRECTOR 17 JAMSHEDJI TATA ROAD MUMBAI-400 020. ...R2 IN W.P.35322 TO 35326/2013, 3121/15, 17218 TO 17223/2013 AND W.P. (MD) 17218 TO 17223/13
...R3 IN W.P.9056, 9057/14 & 29110/2015
- 3 INDIAN OIL CORPORATION LIMITED REP. BY ITS CHAIRMAN & MANAGING DIRECTOR SCOPE COMPLEX NEW DELHI-110 003. ...R3 IN W.P.35322 TO 35326 /2013, 3121/15, W.P. (MD) 17218 TO 17223/2013
...4TH RESPONDENT IN W.P.9050 & 9057/14 & 29110/2015
- 4 THE DIRECTOR (MARKETING) INDIAN OIL CORPORATION G-9 ALI YUAVAR JUNG MARG BANDARA EAST MUMBAI-400 051. ... R4 IN W.P.35322 TO 35326 OF 2013, 3121/2015, W.P. (MD) 17218 TO 17223/2013
...2ND RESPONDENT IN W.P.9056, 9057/14 & 29110/2015
- 5 BHARAT PETROLEUM CORPORATION LTD. REP. BY ITS CHAIRMAN & MANAGING DIRECTOR BHARAT BAVAN NO.4 & 6 CURRIM BHOY ROAD BALLARD ESTATE P.B.NO.688 MUMBAI-1.
- 6 THE GOVERNMENT OF TAMIL NADU REP. BY ITS SECRETARY FOOD CIVIL SUPPLIES AND CONSUMER PROTECTION DEPARTMENT FORT ST. GEORGE CHENNAI-9.
- 7 THE COMMISSIONER FOR CIVIL SUPPLIES CHEPAUK CHENNAI-5. ..R5 TO R7 IN ALL WPS AND WPS (MD)

WP No.35322 of 2013:

Writ Petitions filed under Article 226 of the Constitution of India to issue Certiorarified Mandamus Calling for the impugned advertisement published in The Hindu Newspaper dated 21.9.2013 by the 2nd to 5th respondents for appointment of LPG Distributors in Korattur, Ambattur Taluk, Thiruvallur District (Sl. No.109) and quash the same and consequently direct the 1st to 5th respondents herein to allot LPG distributorship in Korattur, Ambattur Taluk, Thiruvallur District (Sl. No.109) or in any location in Tamil Nadu to the petitioner.

WP No.35323 of 2013:

Writ Petitions filed under Article 226 of the Constitution of India to issue Certiorarified Mandamus Calling for the impugned advertisement published in The Hindu Newspaper dated 21.9.2013 by the 2nd to 5th respondents for appointment of LPG Distributors in Porur, Thiruvallur District (Sl. No.110) and quash the same and consequently direct the 1st to 5th respondents herein to allot LPG distributorship in Porur, Thiruvallur District (Sl. No.110) or in any location in Tamil Nadu to the petitioner.

WP No.35324 of 2013:

Writ Petitions filed under Article 226 of the Constitution of India to issue Certiorarified Mandamus Calling for the impugned advertisement published in The Hindu Newspaper dated 21.9.2013 by the 2nd to 5th respondents for appointment of LPG Distributors in Madhavaram, Chennai District (Sl. No.129) and quash the same and consequently direct the 1st to 5th respondents herein to allot LPG distributorship in Madhavaram, Chennai District (Sl. No.129) or in any location in Tamil Nadu to the petitioner.

WP No.35325 of 2013:

Writ Petitions filed under Article 226 of the Constitution of India to issue Certiorarified Mandamus Calling for the impugned advertisement published in The Hindu Newspaper dated 21.9.2013 by the 2nd to 5th respondents for appointment of LPG Distributors in Trichi, (Subramania Puram), Trichi District and quash the same and consequently direct the 1st to 5th respondents herein to allot LPG distributorship in Trichi, (Subramanianpuram), Trichi District or in any location in Tamil Nadu to the petitioner.

WP No.35326 of 2013:

Writ Petitions filed under Article 226 of the Constitution of India to issue Certiorarified Mandamus Calling for the impugned advertisement published in The Hindu Newspaper dated 21.9.2013 by the 2nd to 5th respondents for appointment of LPG Distributors in Thiruvannamalai, (Ramana Nagar), Thiruvannamalai District (Sl. No.253) and quash the same and consequently direct the 1st to 5th respondents herein to allot LPG distributorship in Thiruvannamalai, (Ramana Nagar), Thiruvannamalai District (Sl. No.253) or in any location in Tamil Nadu to the petitioner.

WP No.9056 of 2014:

Writ Petitions filed under Article 226 of the Constitution of India to issue Certiorarified Mandamus calling for the impugned advertisement published in The Hindu Newspaper dated 21.9.2013 by the 2nd to 5th respondents for appointment of LPG distributors in Arni, Thiruvannamalai District and quash the same and consequently direct the 1st to 5th respondent herein to allot LPG distributorship in Arni, Thiruvannamalai District or in any location in Tamilnadu to the petitioner.

WP No.9057 of 2014:

Writ Petitions filed under Article 226 of the Constitution of India to issue Certiorarified Mandamus calling for the impugned advertisement published in The Hindu Newspaper dated 21.9.2013 by the 2nd to 5th respondents for appointment of LPG distributors in Salem (Kannankurichi), Salem District and quash the same and consequently direct the 1st to 5th respondent herein to allot LPG distributorship in Salem (Kannankurichi) Salem District or in any location in Tamilnadu to the petitioner.

WP No.3121 of 2015:

Writ Petitions filed under Article 226 of the Constitution of India to issue Certiorarified Mandamus calling for the records relating to the brochure on guidelines for selection of regular LPG distributors April, 2014 issued by the respondents and quash the clause 9 of the brochure in respect of the applicants under clause 6.2.3 and consequentially direct the respondents 1 to 5 allot LPG distributorship for the applicants qualified under clause 6.2.3 of the brochure.

WP No.29110 of 2015:

Writ Petitions filed under Article 226 of the Constitution of India to issue Certiorarified Mandamus Calling for the impugned advertisement published in the Hindu Newspaper dated 21.09.2013 by the 2nd to 5th respondents for appointment of LPG distributors in Kancheepuram District and quash the same and consequently direct the 1st to 5th respondents herein to allot LPG distributorship in Kancheepuram District or in any location in Tamil Nadu to the petitioner.

Prayer in W.P.(MD) No.17218 of 2013:

Writ Petition filed under Article 226 of the Constitution of India praying to to issue a Writ of Certiorarified Mandamus calling for the impugned advertisement published in the "Dinathanthi" Newspaper dated 21.09.2013 by the 2nd to 5th respondents for appointment of LPG distributors in Karaikudi-3, Sivangangai District and quash the same and consequently direct the 1st to 5th respondents herein to allot LPG distributorship in Karaikudi-3, Sivagangai District or in any location in TamilNadu to the petitioner.

Prayer in W.P.(MD).No.17219 of 2013:

Writ Petition filed under Article 226 of the Constitution of India praying to to issue a Writ of Certiorarified Mandamus calling for the impugned advertisement published in the "Dinathanthi" Newspaper dated 21.09.2013 by the 2nd to 5th respondents for appointment of LPG distributors in Tirunelveli (KTC Nagar), Tirunelveli District , and quash the same and consequently direct the 1st to 5th respondents herein to allot LPG distributorship in Tirunelveli(KTC Nagar), Tirunelveli District or in any location in TamilNadu to the petitioner.

Prayer in W.P(MD).No.17220 of 2013:

Writ Petition filed under Article 226 of the Constitution of India praying to to issue a Writ of Certiorarified Mandamus calling for the impugned advertisement published in the "Dinathanthi" Newspaper dated 21.09.2013 by the 2nd to 5th respondents for appointment of LPG distributors in Erumapatti, Namakkal District and quash the same and consequently direct the 1st to 5th respondents herein to allot LPG distributorship in Erumapatti, Namakkal District or in any location in TamilNadu to the petitioner.

Prayer in W.P(MD).No.17221 of 2013:

Writ Petition filed under Article 226 of the Constitution of India praying to to issue a Writ of Certiorarified Mandamus calling for the impugned advertisement published in the "Dinathanthi" Newspaper dated 21.09.2013 by the 2nd to 5th respondents for appointment of LPG distributors in Trichy-2, Trichy District and quash the same and consequently direct the 1st to 5th respondents herein to allot LPG distributorship in Trichy-2, Trichy District or in any location in TamilNadu to the petitioner.

Prayer in W.P(MD).No.17222 of 2013:

Writ Petition filed under Article 226 of the Constitution of India praying to to issue a Writ of Certiorarified Mandamus calling for the impugned advertisement published in the "Dinathanthi" Newspaper dated 21.09.2013 by the 2nd to 5th respondents for appointment of LPG distributors in Surandai, Tirunelveli District and quash the same and consequently direct the 1st to 5th respondents herein to allot LPG distributorship in Surandai, Tirunelveli District or in any location in TamilNadu to the petitioner.

Prayer in W.P(MD).No.17223 of 2013:

Writ Petition filed under Article 226 of the Constitution of India praying to to issue a Writ of Certiorarified Mandamus calling for the impugned advertisement published in the "Dinathanthi" Newspaper dated 21.09.2013 by the 2nd to 5th respondents for appointment of LPG distributors in Rajapalayam East, Virudhunagar District and quash the same and consequently direct the 1st to 5th respondents herein to allot LPG distributorship in Rajapalayam East, Virudhunagar District or in any location in TamilNadu to the petitioner.

For Petitioners in
W.P.Nos.35322 to 35326 of 2013
9056 & 9057 of 2014, 29110
of 2015 and W.P.(MD) Nos.17218 to
17220, 17222 & 17223 of 2013 .. Mr.K.Raja

For Petitioner in
W.P.No.3121 of 2015 ..Mr.K.M.Vijayan, Senior Counel
for M/s.K.M.Vijayan
Associates

For Petitioner in
W.P.(MD) No.17221 of 2013 .. Mr.V.R.Rajasekaran

For Respondents

- .. Mr.M.Ravindran, SC for
Mr.V.Anantha Natarajan for
M/s.IOCL, BPCL & HPCL in
all WPs.
- .. Mr.G.Rajagopalan, SC for
Mr.B.Rabu Manohar, SCGSC
for R1 in all W.Ps.
- .. Mr.V.Jayaprakash Narayan,SGP
for R6 & R7 in all W.Ps.

COMMON ORDER

The petitioners in all these writ petitions, are the Kerosene Wholesale Dealers. All of them have been aggrieved by the respective Notifications issued by the Oil Corporations, viz., M/s.Hindustan Petroleum Corporation Limited, (HPCL), M/s.Indian Oil Corporation Limited (IOCL), M/s.Bharat Petroleum Corporation Limited (BPCL), in and by which, calling for the applications for appointment of LPG Distributors under the various categories at locations specified therein, from among the candidates belonging to different categories mentioned therein in the State of Tamil Nadu and Puducherry. Challenging the said notifications, the petitioners have come forward with these writ petitions and consequently, praying to direct the respondents to allot LPG distributorship to them.

2. According to the petitioners, the distribution of Kerosene (SKO) has been reduced by the Government of India since 2001-02, taking into account the number of LPG connections released in each State. SKO Dealerships of the petitioners have become unviable over the period due to reduced supply of SKO by the Oil Corporations. The Ministry of Petroleum and Natural Gas, has decided as a policy to formulate a scheme to allow SKO dealers to switchover to LPG distribution and entrusted the responsibility to work out the modalities to implement its policy to the Oil Marketing Companies. Consequently, specific eligibility criteria is prescribed by the Oil Marketing Companies for permitting existing SKO dealers to apply for LPG distributorship so as to implement the policy to allow SKO dealers to switch over to LPG distributorship. The Government of India as well as Government of Tamil Nadu have been concentrating on the supply of LPG only, which resulted in reduction of allotment of kerosene. The policy of the Government of Tamil Nadu is that whoever holding two LPG cylinders, is not entitled to get kerosene from the Public Distribution System and whoever holding one LPG cylinder, is entitled to get only 3 liters of kerosene per month. On the other hand, the allotment of LPG to the existing LPG dealers is getting increased day by day and they are not able to supply LPG to the public effectively. Since kerosene business has become very sick, the petitioners have incurred huge loss by supplying

the Kerosene product of the Oil Corporations. The Oil Corporations have to rehabilitate the petitioners, otherwise right to livelihood under Article 21 of the Constitution will be affected. However, the Government of Tamil Nadu and Union of India have been taking earnest steps to allot LPG distributorship to SKO/LDO (Kerosene dealers). While so, the respective Oil Corporations have also issued advertisement in Hindu Newspaper on 15.6.2010 to fill up all the locations in Tamil Nadu, so that they can say that all the locations are filled up. Challenging the same, a batch of writ petitions in W.P.Nos.22503 of 2010, 16517 to 16519 of 2010 were filed before this Court. While disposing the said writ petitions, this Court, on 23.8.2011, has passed the order, of which, para 9 to 12 are relevant and they are extracted hereunder:

"9. From the above communications and the counter affidavit of the 1st respondent, it is very clear that the Ministry expressed the concern about the reduction in volume of business in kerosene all over India and also stated that the issue relating to conversion of SKO dealers to LPG dealers, in view of their operation becoming commercially unviable owing to gradual reduction in PDS SKO quota, is under consideration by this Ministry.

10. The learned Additional Solicitor General submits that the matter is under active consideration of the Ministry and it is an all India problem.

11. At this juncture, the learned senior counsel Mr.Vijay Narayanan as well as Mr.Murugamanickam, learned counsel appearing for the petitioners have submitted that these writ petitions could be disposed of based on the counter affidavit filed by the Union of India and the submissions made by the learned Additional Solicitor General.

12. In these circumstances, the Writ Petitions are disposed of, directing the first respondent, Union of India, Ministry of Petroleum and Natural Gas, New Delhi, to take some decision on the proposal for conversion of SKO dealership to LPG distributorship on account of reduction in PDS SKO quota as expeditiously as possible in view of the hardship faced by the kerosene dealers."

3. According to the petitioners, in spite of the direction given by this Court, as stated above, the first respondent has not passed any orders and in the meantime, again, the Oil Corporations issued an advertisement in Hindu Newspaper on 31.12.2012 to fill up all the locations in Tamil Nadu and the

same was also challenged by the petitioners in W.P.Nos.2163 of 2013 etc. wherein, an interim order was passed and consequently, the respondents have recalled their advertisement, dated 31.12.2012 at the intervention of the first respondent not to fill up the locations in Tamil Nadu until decision is taken in consonance with the order passed in W.P.Nos.16517 to 16519 of 2010, dated 23.8.2011. However, the respondents have now issued present impugned advertisement in Hindu on 21.09.2013, calling for applications to fill up all the locations in Tamil Nadu so that they can say that all the locations are filled up and as such SKO/LDO dealers cannot be accommodated. The present impugned advertisement was issued even without awaiting the decision to be taken by the first respondent on the issue as to whether SKO/LDO dealers can be converted into LPG distributorship. Challenging the same, the present writ petitions have been filed.

4. Writ Petition in W.P.No.3121 of 2015 has been filed by the petitioners, who are also wholesale superior Kerosene Dealer (SKO), praying to quash the Clause 9 of the Brochure on guidelines for selection of regular LPG Distributors (April 2014) and consequently allot LPG distributorship to the petitioners qualified under Clause 6.2.3.

5. According to the above said petitioners, in the year 2010, the Government of India revised LPG Policy enforcing gradual reduction of kerosene usage and encouraging LPG cylinders usage for general public and thus various methods were envisaged, resulting in the usage of kerosene throughout the country was drastically reduced and thereby, the livelihood of the SKOs, who are 427 in number including the petitioners, is put to stake by the policy of the Government and hence, they made representations to convert them as LPG distributors. While so, a batch of writ petitions were filed before this Court challenging the advertisements issued by the various Oil Corporations in respect of allotment of LPG distributorship. While disposing of the said writ petitions, this Court directed the Government of India, to take decision of the proposal for conversion of SKO dealership to LPG distributorship on account of reduction in PDS/SKO quota. Subsequently, the Oil Corporations amended brochure on guidelines for selection of LPG distributors and inserted Clause 6.2.3, which provided specific eligibility criteria for existing SKO companies. The grievance of the petitioners is that by virtue of the above said Clause, no specific right was given in favour of the petitioners, but only certain concession was given to fit in to the eligibility criteria of selection and there was no provision, enabling the petitioners to get the allotment of LPG dealership. It is also stated that Clause 6.2.3 is not benefiting the petitioners and the selection process as per the norms, would lead to a situation of elimination of the

successful applicants since ultimate selection is done only by drawal of lot under Clause 9 of the brochure. In other words, though the SKO dealers were found eligible, however, they would be eliminated through the lot system and therefore, the procedure for selection in respect of SKO dealers is unjust and illegal. Hence, the petitioners have come forward with the above writ petition.

6. Mr. K. Raja, learned counsel appearing for the petitioners would submit that for the decades together, the petitioners have been carrying on Kerosene business as Superior Kerosene Dealers (SKOs) appointed by the respective Oil Corporations and initially their business was healthy as there was high consumption of Kerosene in the State, however, in the present scenario, the Petroleum Ministry of India and Oil Corporations have started giving preference to LPG and releasing large scale of LPG connections throughout the country and consequently, they have drastically reduced SKO quota below viable level, as a result of which, the petitioners are struggling to hold on their business and they are on the verge of closing down their shutters, due to which, the livelihood of the petitioners has been put at stake and they are struggling to feed their families. He has invited the attention of this Court to the letter dated 16.10.2009 addressed by the Under Secretary to Government of India, Ministry of Petroleum and Natural Gas to the Director (Marketing), IOC, Mumbai, wherein, it was requested as under:

"In this connection, you are requested to send comments on behalf of OMCs on operational requirement relating to the feasibility and working of such a system in which a switchover from SKO dealership to LPG distributorship is allowed as a measure of compensation/rehabilitation to the present SKO dealers."

7. He also invited the attention of this Court to the letter dated 21.1.2010 addressed by the Commissioner, Civil Supplies and Consumer Protection Department, Chennai to the Principal Secretary to Government, Co-operation, Food and Consumer Protection Department, Chennai, wherein, it was requested as under:

"I request that the case of SKO dealers may kindly be considered and Ministry of Petroleum and Natural Gas may be requested to issue orders to provide LPG dealership to SKO dealers having their monthly allotment below 100 Kls provided they surrender their SKO dealership. The allotment so surrendered may be reallocated to other less viable dealers to make them viable."

8. Thus, by relying upon the above stated letters, the learned counsel for the petitioners would submit that when the issue in regard to switching over SKO dealership to LPG was pending for consideration, all the Oil Corporations issued advertisements, calling for the applications for appointment of LPG dealers in all the locations. Challenging the same, a batch of writ petitions in W.P.Nos.22503 of 2010, 16517 to 16519 of 2010 were filed before this Court and while disposing the said writ petitions, this Court, on 23.8.2011, directed the Union of India, Ministry of Petroleum and Natural Gas, to take some decision on the proposal for conversion of SKO dealership to LPG distributorship on account of reduction in PDS SKO quota as expeditiously as possible in view of the hardship faced by the kerosene dealers. However, without awaiting the decision of the Ministry, the Oil Corporations have issued impugned notifications, inviting the applications for appointment of LPG dealers.

9. As regards the specific eligibility criteria fixed by the Oil Corporations for existing SKO dealers to switch over to LPG dealer under Clause 6.2.3 of the Brochure on Guidelines for selection of Regular LPG Distributors and the procedure for draw under Clause 9, the learned counsel would submit that the same are onerous in nature and the SKO dealers are not in a position to fulfill the same.

Clause 6.2.3 and the Clause 9 are extracted hereunder:

"Clause 6.2.3. Specific Eligibility Criteria for existing SKO Dealers of OMCs: Existing SKO dealers of OMCs who are eligible under categories as specified in para 6.2.1 & 6.2.2 above can apply for Regular LPG Distributorship on fulfilling the following conditions:

- a. Existing SKO dealers of OMCs operating as a sole proprietor having an average allocation of less than 75 KL of SKO per month during the immediate preceding 12 months prior to the month of advertisement will be eligible to apply for LPG Distributorship. The applicants have to submit along with the application the proof of such allocation from allocating authority of the State Govt./Divisional/Territory/Regional Office of the Oil Company, as the case may be. Multiple Dealership/Distributorship norm shall not be applicable for such applicants.
- b. SKO Dealers operating as a Partnership Firm or Society or Company are not eligible to apply.
- c. In case of allotment, the SKO dealer will have to surrender their SKO dealership prior to issuance of letter of appointment for LPG Distributorship.
- d. Age & Educational Qualification : Age: Maximum upper age limit - 60 years Educational

qualification: Should have passed minimum Xth Standard examination or equivalent from a recognized Board.

e. To be eligible to apply for Regular LPG Distributorship, the SKO dealer should not have been penalized for violation of Marketing Discipline Guidelines within last 5 years preceding the date of advertisement or there should not be any proceedings pending against the dealership under Marketing Discipline Guidelines/Dealership Agreement, Kerosene Control Order or ESMA.

f. Common eligibility criteria as specified under para no. 6.1 above shall also be applicable to SKO dealers."

"Clause 9. PROCEDURE FOR DRAW 9.1. The scrutiny of the application will be carried out based on the information given in the application by the Committee appointed by the concerned Oil Company. 9.2. Selection will be done by draw of lot out of all eligible applicants. All applicants satisfying the eligibility criteria will be eligible for the draw.

9.3. All the applicants will be individually informed about the status of their application. The list of ineligible applicants & applicants eligible for draw of lot will be made available on the notice board of the concerned office of the Oil Company as well as on the website of the concerned Oil Company.

9.4. In case, complaints are received about any applicant with regard to their eligibility before the draw, the complaint would be dealt as mentioned below in Para 13 'Grievance /Complaint Redressal System'.

9.5. In case for a location there is only one eligible applicant, no draw is required. The lone eligible applicant would be declared as selected. The result would be displayed and hosted on the website. Field Verification of Credentials (FVC) would be conducted in line with procedure.

9.6. In case of two or more eligible applicants, draw for selection of LPG Distributor would be conducted. All the eligible applicants would be sent a written communication by Registered Post AD / Speed Post to report for a draw for selection of LPG Distributor at a specified 21 place on specified date and time. The notice with regard to the draw would be published before the date of draw in the same newspapers in which the advertisement

for appointment of LPG Distributor was initially published.

9.7. Attendance of all the applicants who have reported for draw would be taken and Applicants should sign the attendance sheet.

9.8. Serial Number of the application along with name of applicant would be printed on a "paper token" and officers nominated for the draw would sign on each "paper token" with date of draw.

9.9. Two officials of the company will conduct the draw in the presence of the candidates and the invited guest. However, the Quorum will comprise of at least 50% of the eligible applicants for the 1st draw (whose names are there in the draw). If Quorum is not fulfilled during the 1st draw, then draw would not be held on that day. Subsequent date for the draw shall be fixed and announced as per the laid down procedure.

9.10. In case draw is required to be conducted for the second and subsequent times including with reasons of Quorum not being available in the 1st draw, then the draw will be held in the presence of two company officials, the invited guest and the number of applicants who choose to remain present during the draw.

9.11. The entire proceedings of the draw will be video graphed.

9.12. Folded paper tokens of all eligible applicants will be put in an empty box. The invited guest would be requested to draw out one 'paper token', unfold and show it to the video camera for it to capture the serial number and name of the applicant mentioned in the 'paper token'. The application serial number and name of the candidate would be announced and declared as selected candidate for LPG distributorship for that location.

9.13. The result of the draw would be displayed on the notice board of the venue immediately and at Company office. It would also be hosted on the website of the Company within 7 days from the date of draw.

9.14. Candidate Selected in the draw will have to submit a Demand Draft of Rs. 50000/- (Fifty Thousand) i.e. 10% of the security deposit of Rs. 5 lakhs for LPG distributorship in Urban market or submit a Demand Draft of Rs. 25000/- (Twenty five thousand) i.e. 10% of the security deposit of Rs. 2.5 lakhs for LPG distributorship in Urban-Rural/Rural market within 3 working days from the date of receipt of letter issued by the concerned

office of the OMC in this regard.

9.15. Field Verification of Credentials (FVC) of selected candidate will be undertaken only after DD of Rs. 50000/- or Rs. 25000/- as applicable is deposited with the concerned office of OMC. The candidature of the selected candidate will be cancelled in case he/she fails to deposit the said amount."

10. It is pertinent to note that under Clause 6.2.3(a), a pre-condition was fixed for the existing SKO dealers that if the average allocation of less than 75 KL per month, only those SKO dealers are eligible to apply for LPG Distributorship. In this regard, the learned counsel submit that whenever LPG distributors have business below 60% of the total number of cylinders allocated per month, such distributorships are treated as unviable by the Oil Corporations and in such cases, they allocate additional cylinders to make the distributors viable by transferring additional cylinders from other distributors who handle over and above their allocation/handling capacity. Average allocation of 75 KL of SKO per month in effect works out only 30% of the total 250 KL of SKO per month allocated to each SKO Dealers. He would further submit that doing business not below 60% of the handling capacity is taken as the viable limit for LPG Distributorship, whereas in the case of SKO Dealers, same Oil Marketing Companies would apply different yardstick by taking allocation of below 75 KL [30% of the monthly Quota] out of 250 KL/month which is construed as unviable. There is a disparity in the yardstick adopted for construing a LPG Distributorship and SKO dealership as unviable. Any existing SKO dealer would become eligible to get LPG distributorship by surrendering SKO dealership provided he is in a position to fulfill required infrastructure and financial capability prescribed for awarding LPG distributorship. In such circumstances, prescription of additional condition that SKO dealer applying for LPG distributorship shall not have average allocation of SKO per month more than 75 KL has no nexus to the conversion of SKO Dealers as LPG distributor. Thus the learned counsel would contend that it is arbitrary to say that only such SKO Dealers who are getting average allocation of SKO below 30% of their monthly quota alone will be eligible to apply for LPG Distributorship and that the Clause 6.2.3 (a) prescribing that SKO dealers operating as sole proprietor and having average allocation of less than 75 KL of SKO/month in the preceding year alone are eligible to apply for LPG Distributorship is wholly irrelevant for the rehabilitation of existing SKO dealers who are willing and otherwise ready to fulfill the essential criteria in regard to infrastructure and financial capability prescribed for awarding LPG Distributorship.

11. With regard to the eligibility fixed under Clause 6.2.3 (b), the learned counsel for the petitioners would submit that as per the said Clause, if the SKO dealers operate business as partnership, they are made ineligible to apply for LPG distributorship. In this regard, the learned counsel for the petitioners referred one of the SKO dealer, namely, P.Sathyanathan, who was awarded SKO dealership during the year 1971 and at the time of allotment, it was allotted in the individual name, but later, the said allottee was directed by the Oil Corporation to convert the individual dealership as partnership by making his wife as partner with 50% share to fulfill the revised terms and conditions of the Oil Corporation and in such circumstances, now by the impugned Clause 6.2.3(b) making SKO dealer an ineligible for distributorship, runs contrary to Clause 15 of the Guidelines which insists that any individual applicant got selected for awarding LPG distributorship shall make his/her spouse as partner with 50% share. Therefore, it is contended that the Clause 6.2.3(b) is arbitrary and not sustainable in law. As regards Clause 6.2.3 (d), the learned counsel would submit that the said clause prescribes upper age limit of 60 years for the category of SKO dealers to apply for LPG distributorship, however, Clause 20 of the Guidelines relating to Tenure of Distributorship permits continuation of distributorship without any outer time limit and irrespective of age of the partners of the firm. Further, he would point out that most of the SKO dealers were appointed during the year 1971 and by this time, most of them would have crossed 60 years and hence, by fixing upper age limit of 60 years, the Oil Corporations have virtually made the SKO dealers to become ineligible to apply for LPG distributorship.

12. Mr.K.Raja, learned counsel appearing for the petitioners would also submit that by imposing onerous conditions on the SKO dealers to switch over to LPG distributors, the Oil Corporations have made them ineligible. Keeping in the mind the status of the petitioners who are old and belong to weaker section, the Oil Corporations ought to have provided the facilities in order to enable the petitioners to make their livelihood. In this regard, the learned counsel relied upon a decision reported in "(2015) 5 SCC 813 (Lala Ram (dead) by L.Rs. Versus Union of India and another)", wherein, it was observed by the Hon'ble Supreme Court as under:

"... A welfare State must attempt to provide all facilities for decent living, particularly to the poor, the weak, the old and the disabled, i.e. to all those, who admittedly belong to the weaker sections of the society. Articles 38 and 39 of the Constitution of India provide that the State must

strive to to promote the welfare of the people of the State by protecting all their economic, social and political rights. These rights may cover, means of their livelihood, health and the general well-being of all sections of people in society, specially those of the young, the gold, the women and the relatively weaker sections of the society. These groups generally require special protection measures in almost every set up. The happiness of the people is the ultimate aim of a welfare State, and a welfare State would not qualify as one, unless it strives to achieve the same."

13. The learned counsel also relied upon a decision reported in "(2010) 10 SCC 715 (Gaiinda Ram and others versus Municipal Corporation of Delhi and others)", wherein, it was observed as under:

"..... While dealing with the question of livelihood and survival of a large number of families and in such a situation, the Court should adopt a compassionate approach so as to ensure that genuine, hawkers/squatters are not denied their daily bread at the altar of technicalities, while at the same time ensuring that those who are out to exploit and abuse the process of law do not succeed. To achieve these objectives, the Court gave certain directions which were set herein under:

(a) General category	-	60%
(b) Scheduled Caste/Scheduled Tribe	-	12½%
(c) Physically handicapped	-	10%
(d) Ex-servicemen	-	2½%
(e) War widows	-	2%
(f) Freedom fighters	-	3%
(g) Extreme hardship and humanitarian grounds	-	10%

14. Mr.Rajasekaran, learned counsel appearing for the petitioner in W.P.(MD).No.17221 of 2013 relied upon the decision reported in "(2003)5 SCC 437 (Union of India and another versus International Trading Co.and another)", wherein, it has been held as under in para 14 and 15.

"14. It is trite law that Article 14 of the Constitution applies also to matters of governmental policy and if the policy or any action of the

Government, even in contractual matters, fails to satisfy the test of reasonableness, it would be unconstitutional.

15. While the discretion to change the policy in exercise of the executive power, when not trammelled by any statute or rule is wide enough, what is imperative and implicit in terms of Article 14 is that a change in policy must be made fairly and should not give impression that it was so done arbitrarily on by any ulterior criteria. The wide sweep of Article 14 and the requirement of every State action qualifying for its validity on this touchstone irrespective of the field of activity of the State is an accepted tenet. The basic requirement of Article 14 is fairness in action by the state, and non-arbitrariness in essence and substance is the heart beat of fair play. Actions are amenable, in the panorama of judicial review only to the extent that the State must act validly for a discernible reasons, not whimsically for any ulterior purpose. The meaning and true import and concept of arbitrariness is more easily visualized than precisely defined. A question whether the impugned action is arbitrary or not is to be ultimately answered on the facts and circumstances of a given case. A basic and obvious test to apply in such cases is to see whether there is any discernible principle emerging from the impugned action and if so, does it really satisfy the test of reasonableness."

15. The learned counsel also relied upon the decision reported in "(1990) 3 SCC 752 (Mahabir Auto Stores and others versus Indian Oil Corporation and others)", wherein, it has been held as under in para 12:

"12. It is well settled that every action of the State or an instrumentality of the State in exercise of its executive power, must be informed by reason. In appropriate cases, actions uninformed by reason may be questioned as arbitrary in proceedings under Article 226 or Article 32 of the Constitution. Reliance in this connection may be placed on the observations of this Court in M/s Radha Krishna Agarwal & Ors. v. State of Bihar & Ors., [1977] 3 SCC 457. It appears to us, at the outset, that in the facts and circumstances of the case, the respondent-company IOC is an organ of the State or an instrumentality of the State as contemplated under Article 12 of the Constitution. The State acts in

its executive power under Article 298 of the Constitution in entering or not entering in contracts with individual parties. Article 14 of the Constitution would be applicable to those exercises of power. Therefore, the action of State organ under Article 14 can be checked. See *M/s Radha Krishna Agarwal v. State of Bihar*, (supra) at p. 462, but Article 14 of the Constitution cannot and has not been construed as a charter for judicial review of State action after the contract has been entered into, to call upon the State to account for its actions in its manifold activities by stating reasons for such actions. In a situation of this nature certain activities of the respondent company which constituted State under Article 12 of the Constitution may be in certain circumstances subject to Article 14 of the Constitution in entering or not entering into contracts and must be reasonable and taken only upon lawful and relevant consideration, it depends upon facts and circumstances of a particular transaction whether hearing is necessary and reasons have to be stated. In case any right conferred on the citizens which is sought to be interfered, such action is subject to Article 14 of the Constitution, and must be reasonable and can be taken only upon lawful and relevant grounds of public interest. Where there is arbitrariness in State action of this type of entering or not entering into contracts, Article 14 springs up and judicial review strikes such an action down. Every action of the State executive authority must be subject to rule of law and must be informed by reason. So, whatever be the activity of the public authority, in such monopoly or

semi-monopoly dealings, it should meet the test of Article 14 of the Constitution. If a Governmental action even in the matters of entering or not entering into contracts, fails to satisfy the test of reasonableness, the same would be unreasonable."

16. Thus, the learned counsel would submit that impugned onerous conditions viz., Clauses 6.2.3 (a), (b), (d) and 9 of the Guidelines for selection of LPG distributors are neither relevant nor made applicable to the SKO dealers, the petitioners herein, who are facing closure of their business due to change of policy of the Government and hence, they are liable to set aside as arbitrary and illegal.

17. Mr.K.M.Vijayan, learned senior counsel appearing for the petitioner in W.P.No.3121 of 2015, while referring to the impugned Clause 9 of the Guidelines for selection of LPG distributors, which prescribes the procedure for selection of LPG distributorship by way of draw, would submit that such prescription of the selection by draw of lots is wholly illegal criteria and leads to illogical manner of selection. When a detailed selection procedure is prescribed, there is no justification to resort to draw of lots to select a dealer and it is nothing but a chance and amounts to gambling and in the matter of selections to the agencies which have lot of public importance, such procedure of selection is illegal and the same is against public interest. The learned counsel further submit that even the SKO dealers who are found fit by fulfilling the conditions, however, ultimately they would be eliminated by way of lot system. Hence, the said lot system is farce illegal and therefore, the impugned Clause 9 is liable to be struck off.

18. On the contrary, Mr.G.Rajagopalan, learned senior counsel appearing for the first respondent/Union of India, by filing a detailed counter affidavit, would submit that policy adopted by the Government of India in 2000, Kerosene (SKO) allocation for distribution under the public distribution system (PDS) was reduced every year beginning 2001-02 till 2003-04, taking into account the number of LPG connections released in each State/Union Territory. In fact, up to 2009-10 no reduction was made from the PDS Kerosene quota of the States/Union Territory on account of increase in LPG coverage, except for the quota lapsed due to non-upliftment by the States/Union Territory. From the year 2010-11, quota of PDS Kerosene has been rationalised based on factors such as increase in domestic LPG connections, lapse of PDS Kerosene quota and cap on the PDS Kerosene allocation for non-LPG/non-PNG population.

19. It is further submitted that PDS Kerosene is diverted by unscrupulous elements for unauthorized usage including adulteration and thus does not reach the targeted end users and due to rationalization of PDS Kerosene allocation, the quota of PDS Kerosene has been progressively reduced from 2010-11. After due deliberations, the LPG Selection Guidelines were amended and subsequent to the order of this Court, a considered decision was taken to relax the eligibility conditions for SKO dealers so that they can also participate in the award process of LPG distributorship as is applicable for everybody and with these relaxations, the existing unviable SKO dealers can also apply for LPG distributorship. Therefore, the learned senior counsel would submit that the conditions cannot be said to be onerous

and in fact, by considering the requests of the SKO dealers, the said eligibility criteria has been fixed in order to enable the SKO dealers to apply for LPG distributorship. Thus, the learned senior counsel sought for dismissal of the writ petitions.

20. Mr.M.Ravindran, learned senior counsel appearing for the Oil Corporations, by filing a detailed counter affidavit, would submit that no constitutional right is vested with the petitioners to claim LPG distributorship and in fact, in view of the direction given by this Court, the request of the SKO dealers was considered and certain special eligibility criteria was fixed for them to switch over to LPG distributorship. He also submitted that by virtue of Clause 6.2.3, the SKO Dealers can apply for LPG distributorship and the irregularities pointed out by the learned counsel for petitioners are not so glaring warranting interference by this Court. He pointed out that the issue involved in these writ petitions is no more res integra in view of the decision rendered by the High Court of Andhra Pradesh in "A.P.Kerosene Wholesale Dealers Federation versus Union of India and others" in W.P.No.32775 of 2013, dated 14.8.2014, in and by which, having discussed the issue elaborately, the learned single Judge has dismissed the similar writ petitions. As regards the Clause 9, the learned senior counsel would submit that out of eligible candidates who have fulfilled the prescribed criteria and came within the zone of consideration, would be selected for allotment of LPG distributorship by drawing lots in order to avoid arbitrariness and favouritism and therefore, the said procedure, is perfectly valid. In support of his submissions, the learned senior counsel relied upon a decision of a Division Bench of the Bombay High Court in W.P.No.4693 of 2010. With these submissions, the learned senior counsel sought for dismissal of the writ petitions.

21. Heard the respective learned senior counsel appearing for the petitioners and respondents and perused the entire materials available on record.

22. Though very many contentions have been raised by the petitioners in these writ petitions, the only question that has to be decided is whether the prayer sought for in the respective writ petitions, is legally sustainable?

23. In fact, similar writ petitions were moved by M/s.Lakshmi Trades and others before the Karnataka High Court in W.P.Nos.49584 to 49590 of 2013 and by an elaborate judgment, the learned Judge has dismissed the writ petition by dealing with the following points that arose for consideration, viz.,

1. Whether the Notification, as at Annexure-B, is arbitrary and illegal?
2. Can the petitioners - SKO dealers, insist to provide them LPG distributorship as a matter of course, i.e. without subjecting them to the selection process?

The above said points were answered by the Karnataka High Court by observing as under in para 11.

"11. Undeniably, it is the obligation of the public sector oil companies, which fall within the meaning of 'State' under Article 12 of the Constitution of India, to ensure equitable timely and efficient supply of the petroleum products to the consumers. The petitioners, existing kerosene dealers, have no right to object the oil companies in establishing the LPG Stations in different locations of the State. The oil companies having developed a policy for establishment of new distributorship for enabling efficient supply of LPG to the consumers, issued the Notification as at Annexure-B, by providing relaxed conditions for the existing dealers in kerosene, like the petitioners, to apply. In the face of the policy decision taken by the public sector oil companies, in the larger public interest for efficient supply of LPG to the consumers, the economic benefits derived by the petitioners as dealers of kerosene should yield. It is the larger public interest which should prevail and not the private economic interest of a citizen, whose interests is also taken care of by relaxing the conditions."

24. Further, in W.P.No.32775 of 2013 the High Court of Andhra Pradesh has also negatived the similar contentions, by judgment, dated 14.8.2014 by observing as under in para 20 to 23 and 25:

"20. Petitioner cannot ask to issue a mandamus to relax these essential requirements. It cannot be said that not providing exclusive reservation to SKO dealers is arbitrary and discriminatory. On the contrary, granting such reservation exclusively to SKO dealers to the complete exclusion of the open market candidates would attract the wrath of Article 14.

"21. It is well settled principle of law that Article 19(1)(g) does not extend to compel the State or its instrumentalities to do business with

a person on his terms. Thus, it cannot be said that the policy formulated by the oil companies is erroneous. It cannot be said that the right flowing out of Article 19(1)(g) and the right to decent living as mandated by Article 21 is affected on account of increase in use of LPG and reduction in the consumption of kerosene. There is no restraint on the individual from carrying on any other business or avocation and is not prevented from applying to LPG distributorship like any other person. Thus, reduction of consumption of kerosene cannot be a ground to demand provision of LPG dealership.

"22. At the time of granting SKO dealership, the dealer and the oil company have entered into an agreement. The dealership agreement defines the relationship between two contracting parties. It does not envisage a promise of compulsory minimum sale and assured income to dealer nor does it envisage prospect of future priority allotment of LPG dealership. The impugned notification does not alter the terms of agreement members of petitioner association have entered into with the respondent oil companies. In matters where relationship is governed by contract such relationship has to be regulated strictly in terms thereof and request of the petitioner would amount to expanding the scope of contract by way of mandamus, which is not permissible.

"23. No right, much less a legal right was vested in the members of the petitioner association and same is impeded by the impugned notification. On the contrary conceding their demand would have amounted to conferring exclusive privilege to them in the form of absolute reservation and the same would abhor the mandate of Article 14 of the Constitution of India.

... ..

"25. Petitioner has not made out a case to issue mandamus to provide existing SKO dealers direct dealership in the form of exclusive reservation to the complete exclusion of open market competition and as a matter of course. Sufficient leverage is already provided to the SKO dealers and no further relaxation or exclusive reservation can be insisted as a matter of right as no such right vested in them and writ court cannot issue mandamus directing the respondent oil companies to provide exclusive reservation. Hence, the writ petition is dismissed.

There shall be no order as to costs. Miscellaneous petitions if any pending in this writ petition shall stand closed.

25. The above said judgments, in my opinion, are squarely applicable to the present case also. I do not find any valid reason to take a different view. On account of increase of usage of LPG, the use of kerosene has come down drastically which affects livelihood of the the SKO dealers, who are entirely dependent on this avocation for several years and they are on the verge of loosing their main source of earnings. In fact, taking into account of this as well as the directions of this Court, the Oil Corporations have prescribed certain criteria facilitating SKO dealers to participate and get LPG distributorship. However, it appears that being not satisfied with the said criteria, the petitioners/SKO dealers have come up with the present writ petitions, demanding automatic conversion into LPG Dealership, which in my opinion, is not feasible. The principle of law is well settled and needs no reiteration that no person can insist a special concession or percentage of reservation in favour of a particular class of people or category of persons as a matter of right. Concession or reservation is an enabling provision and it is exclusive domain of the Oil Corporations to provide concession or reservation to various social groups and to prescribe the percentage of reservation in favour of various social groups. Thus, petitioners cannot as a matter of right insists that there should be automatic conversion by switching over to LPG distributorship and they should not be clubbed with any category of persons in the process of selection of LPG dealerships. In fact, the Oil Corporations have given sufficient justification by making provision, enabling the SKO dealers to switch to LPG distributorship, subject to fulfillment of the prescribed criteria and they have to compete with the other groups in open competition for securing LPG distributorship. Therefore, I do not find any merit in the contentions raised on behalf of the petitioners. Though the learned counsel for the petitioners relied upon numbers judgments delivered by the Hon'ble Supreme Court, in support of their contentions, I find that all those judgments were delivered on different factual aspects and not in respect of commercial transactions; hence, they are not applicable to the present facts of the case.

26. As regards the contentions raised in respect of allotment of LPG distributorship by way of draw of lots system as per Clause 9, generally, in selection process, there were allegations of personal bias and interference in selecting the dealer and manner of conducting interview was utilized for the purpose of choosing the persons of their choice. In order to

eliminate the scope of pick and choose method and to ensure more transparency, the Oil Corporations have decided to adopt draw of lots system. The said draw of lots system envisages putting all the applications into a box and choosing the prospective dealer by picking up in random from among the applicants. A detailed criteria is prescribed for said system. Applications are scrutinized and are being short listed based on the criteria prescribed by excluding those applications which do not fulfill various requirements as advertised. Thus, the valid applications are put together and subjected to draw system. The parameters for screening of applications are laid down and they are transparent. Once those parameters are fulfilled by all the applicants, all of them would stand on par, there is no further scrutiny and there is no scope for picking A or B, since there is no discretion vested. Therefore, in order to eliminate arbitrariness and favouritism in the selection process, the Oil Corporations have rightly adopted the draw of lots system, which, in my opinion is valid and the selection process would be done in transparent manner. In fact, this issue has also been dealt with by a Division Bench of the Bombay High Court in W.P.No.4693 of 2010, wherein, it has been held as under in para 11:

"11. The procedure of selecting the candidate by drawing lots, in our view, eliminates arbitrariness and favouritism. Clause 12.2 of the Brochure creates a class of meritorious candidates who have secured minimum 80%/60% marks for respective locations and out of this class of eligible candidates one is selected by drawing lots for allotment of LPG distributorship without compromising the aspect of merit and also eliminates arbitrariness and favouritism. The said procedure, in our view, is just and proper for allotment of LPG distributorship."

27. Having regard to the above, I do not find any merit in the contentions raised on behalf of the petitioners in respect of selection process based on draw of lots system.

28. For the foregoing discussion, I am of the view that all the writ petitions are liable to be dismissed as devoid of merits. In such view of the matter, the decisions cited by the learned counsel for the petitioners, which are related to the business transactions and contractual relationships, etc., cannot be made applicable to the present case.

In the result, the Writ Petitions fail and they are dismissed.

No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

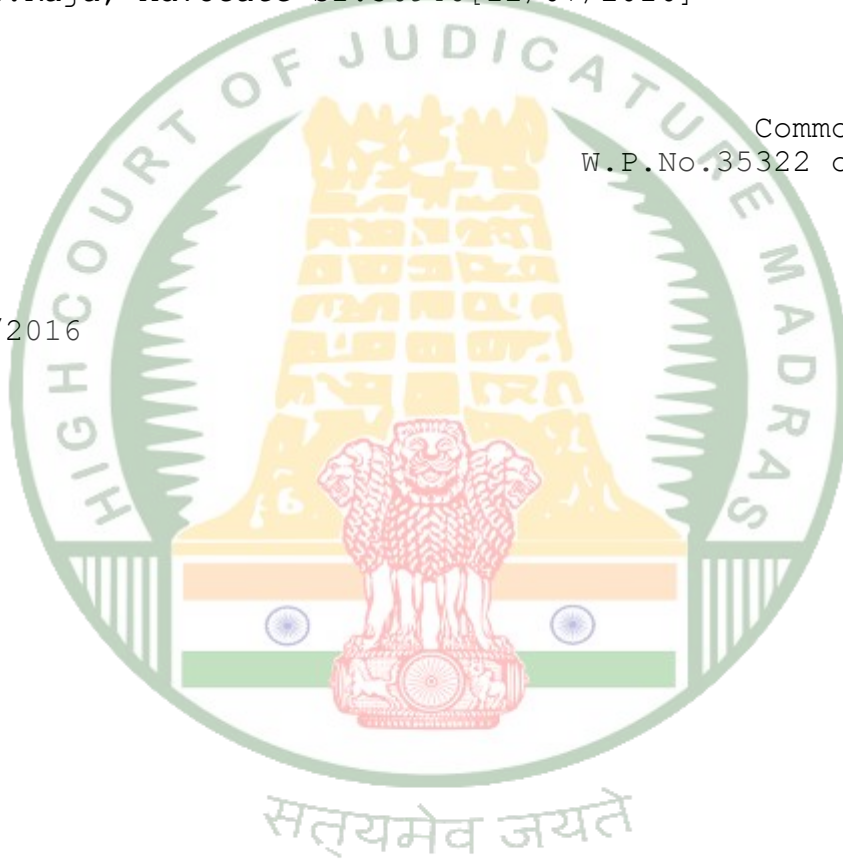
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GEORGE CHENNAI-9.

7 THE COMMISSIONER FOR CIVIL
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+5cc to Mr.Raja, Advocate Sr.36944[12/07/2016]
+1cc to Mr.Raja, Advocate Sr.36946[12/07/2016]

Common Order in
W.P.No.35322 of 2013 etc.

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