

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:02.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P.No.42400 of 2016 & W.M.P.No.36286 of 2016

P.P.Sheela

.. Petitioner

Vs.

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

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondent from forbearing the respondent from divesting the petitioner in operating the Indian Oil COCO Madipakkam, as Job Contractor situated at Plot No.37C & 38, Velacherry Main Road, Srinivasa Nagar, Madipakkam, Chennai - 600 091 in consonance with Ministry of Petroleum & Natural Gas, New Delhi Letter No.P-19011/5/2014-IOC dated 28.07.2014 and order passed by Hon'ble Madras Court in Writ Appeal No.309 of 2010 batch dated 25.08.2014.

For Petitioner : Mr.Venkatachalapathy, Sr. Counsel
for Mr.P.Kannan

For Respondent : Mr. Mohamed Fayaz Ali

ORDER

This Writ Petition has been filed to forbear the respondent from divesting the petitioner in operating the Indian Oil COCO Madipakkam, as Job Contractor situated at Plot No.37C & 38, Velacherry Main Road, Srinivasa Nagar, Madipakkam, Chennai - 600 091.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent and with the consent on either side, the writ petition is taken up for final disposal.

3. The case of the petitioner is that the land measuring 4040 sq. ft. situate in Survey No.218/2 part, bearing Plot No.37C and 38, Madipakkam Village, Tambaram Taluk,

Kancheepuram District exclusively belonged to her husband V.Balakrishnan and he leased out the land to respondent predecessor M/s.IBP Co. Ltd., on 15.07.2003 for a period of 15 years commencing from 28.03.2003 under registered deed bearing document No.3088 of 2003 on the file of the SRO Velacherry for the purpose of setting up a petroleum retail outlet with an assurance from respondent that dealership for the retail outlet would be allotted to him under the land owner dealership category. Unfortunately, on 05.02.2003 the policy granting dealership to landowner was suspended. Hence the petitioner has come forward with the present Writ Petition.

The learned senior counsel for the petitioner submitted first bench of this Court in an identical matter in W.A.Nos.309 and 377 of 2010 in respect of the very same issue, which has been followed by this Court in W.P.No.33067 of 2014 and W.P.(MD) Nos.12102 to 12104 of 2014, has held that the job contractors who are operating the COCO should not be discontinued in view of the letter dated 28.07.2014 of the Ministry of Petroleum and Natural Gas and the petitioner prays for a similar order.

The learned counsel for the respondent also submitted that the respondent is to implement the new policy very soon and if at all, if the petitioner is entitled to any order as per the Order of the Division Bench of this Court, it is only up to the date of implementation of the new policy.

As rightly pointed out by both sides, the facts of this case squarely applies to the earlier order of the Division Bench of this Court in W.A.Nos.309 and 377 of 2010 and which has been followed by this Court in W.P.No.33067 of 2014 and W.P.(MD) Nos.12102 to 12104 of 2014 and the Orders in the above Writ Appeals and Writ Petitions reads as follows :

"(1) The appeals and the petitions filed by the land owners stand dismissed.

(2) If the Indian Oil Corporation is satisfied with the performance of the present M & H Contractors, no precipitative action would be necessary. If they are not satisfied, then they will put the relevant parties to notice of their intent to change on account of lack of performance, so that the parties have a right to explain their stand.

(iii) Needless to say, if a new policy would come into operation, its applicability would depend on how that policy is structured."

5. In lines of the above Order, this Writ Petition is disposed of. No costs.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

vrc

To

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

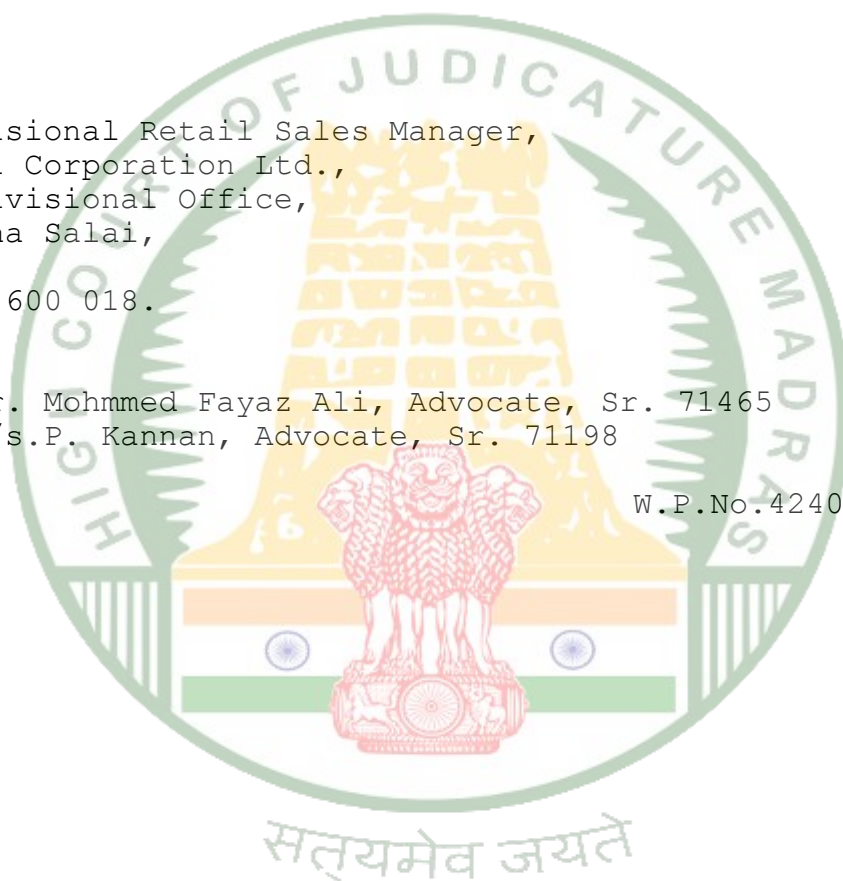
1 cc to Mr. Mohmmmed Fayaz Ali, Advocate, Sr. 71465

1 cc to M/s.P. Kannan, Advocate, Sr. 71198

W.P.No.42400 of 2016

NM(CO)

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