

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.Nos.21138 to 21142, 22011 to 22014 of 2017, 23905 to 23909,
24743 to 24747, 24813 to 24815, 28769, 27615(24 W.Ps.)
and

WMP.Nos.22002 to 22011, 23067 to 23070, 25161 to 25168, 26116 to
26120, 25160, 26211, 26212, 26207 to 26210, 30944, 29538 and
29539 of 2017

1. M/s.Sivaraman Indane Gas Agency
rep by Proprietrix R.Malathi
No.120/342-6 TVK Nagar Federal Bank Backside
Harur post and Taluk Dharmapuri District
.. Petitioner in WP.No.21138 of 2017
1. M/s.C.P.Indane Gas Service
rep by Proprietrix E.Manonmani
No.113A South Udayarpalayam
Opp.Gandhi Statue Athur Taluk
Salem District- 636 102
.. Petitioner in WP.No.21139 of 2017
1. M/s.RLR Indane Gas Service
rep by Proprietrix J.Latha
No.3/A, Venkadathampatti Road
Uthangarai Taluk
Krishnagiri District- 635 207
.. Petitioner in WP.No.21140 of 2017
1. M/s.Sri Thirumalesha Indane Gas Agency
rep by Partner V.Venkatesh
No.7, RV Arcades Opp.CSI Church
Denkanikottai Road Hosur- 635 109
.. Petitioner in WP.No.21141 of 2017

1. M/s.EVR Indane Gas Agency
rep by Proprietor Mr.Agasteen
No.4/590, Teachers Colony,
Vennampatti Main Road
Dharmapuri-1

.. Petitioner in WP.No.21142 of 2017

1. M/s.Sri Sreenivasa Gas Service
Indane Star Distributors No.375
CTH Road, Thirunanravur 602 024
rep. by its Proprietrix J.Hemalatha

.. Petitioner in WP.No.22011 of 2017

1. M/s.Sri Sai Domestic Gas
Suppliers Indane Distributor No.104
Neela South Street Nagapattinam 611 001
rep.by its Proprietor K.Jayaseelan

.. Petitioner in WP.No.22012 of 2017

1. M/s.Devi Gas Agency Indane Distributor
Lawrence Road, Cuddalore-607 002
rep. by its Partner K.Basuvalingam

.. Petitioner in WP.No.22013 of 2017

1. M/s.Jacee Gas Agency
No.01/09 Pazhamalainathar Nagar
Aiyiarmadam Vridhachalam 606 001
rep.by its Partner T.Chandran

.. Petitioner in WP.No.22014 of 2017

1. M/s.Kumar Gas Service
Indane Distributor Puliamara Thottam
2nd Street Mangalam Road Tirupur 641 604
rep.by its Partner P.Swamiappan

.. Petitioner in WP.No.23905 of 2017

1. M/s.Vigneshwara Indane Gas Agency
rep. by its Partner Dhakshinamoorthy
No.28, Rajapatti Kadpadi Road
Opp. To Thirumagal Mill
Gudiyatham 632 602
.. Petitioner in WP.No.23906 of 2017
1. M/s.Rajalakshmi Agencies
rep. by its Partner R.Gnana Vadivel Kumaran
No.31/5 C.K.Srinivasa Rao Street Dharmapuri
.. Petitioner in WP.No.23907 of 2017
1. M/s.Sri Vaisnudevi Indane Gas Service
rep. by its Partner D.Balamurugan
Plot No.LIG-46-F2 Phase 3 TNHB 7th Cross
Bagalur Road Hosur 635 109
rep. by its Partner D.Arunrajan
.. Petitioner in WP.No.23908 of 2017
1. M/s.Thamarai Indane Gas Agency
Rep. by its Proprietor K.Thamaraiselvan
NO.189/4 Krishnagiri Main Road
Burgur 635 104
.. Petitioner in WP.No.23909 of 2017
1. M/s.Shree Chella Agencies
Rep.by its Proprietrix Rajalakshmi Natarajan
No.4 Muthallamman Koil Street
Selaiyur Chennai 600 073
.. Petitioner in WP.No.24743 of 2017
1. M/s.Shri Kala Indane Gas Service
rep. by its Proprietrix R.Kalavathy
No.17 C.D.Old Post Office Street
Ulundurpet Villupuram District 606 107
.. Petitioner in WP.No.24744 of 2017
1. M/s.Pattammal Gas Agency
rep. by its Partner K.Ramalingam
NO.54/490, Mudichur Road,
West Tambaram, Chennai 600 045
.. Petitioner in WP.No.24745 of 2017

1. M/s.Lakshmi Vilas Indane Services
No.12/155 Salem Main Road
Karimangalam Dharmapuri District
Rep. by its Partner B.Harish.
.. Petitioner in WP.No.24746 of 2017
1. M/s.Shri Revathy Indane Gas
Service Rep. by its Proprietor M.Ragavan
No.2/624 Munusamy Nagar 1st Main Road
Medavakkam Chennai 600 100
.. Petitioner in WP.No.24747 of 2017
1. M/s. Sri Jayasree Gas Service
rep.by its Proprietor K.Naventhira
No.5/229 Salem Main Road
Rayakottai - 635 116.
.. Petitioner in WP.No.24813 of 2017
1. M/s.Shree Venkateswara Indane Gas Agencies
rep.by its Proprietor K.Mani
O.5/41-1 Taluk Office Road
Hosur - 635 109 Krishnagiri District.
.. Petitioner in WP.No.24814 of 2017
1. M/s.Jai Sree Gas Service
rep.by its Proprietor K.Naventhira
No.17-A Therpet Road Denkanikotai
Krishnagiri District.
.. Petitioner in WP.No.24815 of 2017
1. M/s.M.M.Gas Agencies
Rep.by its Partner M.Gajendran
No.106 B11 Parameswari Nagar Perambalur.
.. Petitioner in WP.No.28769 of 2017

1. M/s.Dhandapani Gas Agencies
Rep.by Prop.K.Dhandapani
No.9/1-66-6, Dhanishpet Main Road,
Kadayampatty-636 351, Salem District.

.. Petitioner in WP.No.27615 of 2017

Vs

1. The Union of India
Ministry of Petroleum and Natural Gas
rep by its Secretary to Government of India
A-Wing, Shastri Bhavan, Dr.Rajendra Prasad Road
New Delhi-110 001
2. The Indian Oil Corporation
rep by its Managing Director
G-9, Ali Yavar, Jung Marg,
Bandra (East), Mumbai-400 051
... RR 1,2 in all WPs
3. The Deputy General Manager(LPG-S)
Indian Oil Corporation Ltd.,
No.8/1079, Avinashi Road,
Coimbatore ... R3 in WP.No.21138 of 2017
4. M/s.Ithikaash Indane Gas Agency,
Rep.by its Proprietor T.Murugesan,
... R4-in WP.No.21138 of 2017
R4 impleaded as per order dated 14.12.2017
made in WMP.NOs.34494 of 2017 in WP.21138 of 2017
5. The Senior Area Manager,
Indian Oil Corporation Ltd.,
No.8/1079, Avinashi Road,
Coimbatore ... R3 in WP.No.21139 of 2017
6. M/s.Sellammal Indane Gas Distributor,
Rep.by its Partner ... R4 in WP.No.21139 of 2017
R4 impleaded as per order dated 14.12.2017
made in WMP.NOs.34824 of 2017 in WP.21139 of 2017
7. The Chief Area Manager,
Indian Oil Corporation Ltd.,
Indane Area Office, No.8/1079,
Avinashi Road, Coimbatore-640 018
... R3 in W.P.Nos. 21140, 21141,
21142, 23905, 23907/17, 23908/2017,
23909/2017, 24746/2017, 24813/2017,
24814/2017, 24815/2017

8. M/s.MEK Indane Gas Service,
Rep.by its Partner B.Prakash - R4 in WP.No.21140 of 2017
R4-impleaded as per order dated 14.12.2017
Made in WMP.NOs.34825 of 2017 in WP.21140 of 2017
9. M/s.Eastha Indane Gas Agency,
Rep.by its Proprietrix S.Revathi - R4 in WP.No.21141 of 2017
R4 impleaded as per Order dated made in
WMP.NOs.34826 of 2017 in WP.21141 of 2017
10. M/s.Arunachala Indane Gas Service,
Rep.by its Proprietrix P.Vijaya Lakshmi
-R4 in WP.No.23907 of 2017
-R4 impleaded as per order dated 14.12.2017
made in WMP.No.34495 of 2017 in WP.23907 of 2017
11. M/s.Kumaran Indane Gas Agency,
Rep.by its Proprietor P.Bharani,
- R4 in WP.No.24746 of 2017
R4 impleaded as per order dated 14.12.2017
made in WMP.No.34496 of 2017 in WP.24746 of 2017
12. M/s.Raniammal Indane Gas Service,
Rep.by its Proprietor V.Vedha,
- R4 in WP.No.24813 of 2017
R4 Impleaded as per order dated 14.12.2017
made in WMP.No.34497 of 2017 in WP.24813 of 2017
13. M/s.Divya Indane Gas Agency,
Rep.by its Proprietor A.Ajithkumar,
- R4 in WP.No.24814 of 2017
R4 impleaded as per order dated 14.12.2017
made in WMP.No.34498 of 2017 in WP.24814 of 2017
14. The Chief Area Manager,
Indian Oil Corporation Ltd.,
Indane Area Office, 500-Anna Salai
Teynampet, Chennai-18

- R3 in WP.Nos.22011 of 2017, 22014 of 2017,
23906 of 2017, 24743 of 2017, 24744,
24745 of 2017, 24747, 28769 of 2017

15. The Chief Area Manager,
Indian Oil Corporation Ltd.,
Indane Area Office, B-35, Triveni,
II Floor, Sastri Road, Thilainagar
Trichy-16 .. R3 in WP.No.22012 of 2017
16. The Chief Area Manager,
Indian Oil Corporation Ltd.,
Indane Area Office,
139, Nungambakkam High Road,
Chennai-34 .. R3 in WP.No.22013 of 2017
17. THE DEPUTY GENERAL MANAGER (LPG)
INDIAN OIL CORPORATION LIMITED
NO.8/1079, AVINASHI ROAD,
COIMBATORE 640 018 ..R3 in W.P.No.27615 of 2017

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus to;

WP.No.21138 of 2017:-

calling for the records relating to letter dated 10.07.2017 in CBE AO.Sivaraman of the 3rd Respondent and quash the same and consequently forbear Respondents, their men, servants or agents or anyone claiming under them from in any manner compelling the petitioner to transfer the petitioners LPG Consumers to any new/other Distributor.

WP.No.21139 of 2017:-

calling for the records relating to letter dated 13.02.2017 and 16.05.2017 in CBE AO.CP of the 3rd Respondent and quash the same and consequently forbear Respondents their men servants or agents or anyone claiming under them from in any manner compelling the petitioner to transfer the petitioners LPG Consumers to any new/ other Distributor

WP.No.21140 of 2017:-

calling for the records relating to letter dated 23.03.2017 and 16.05.2017 in CBE AO.RLR of the 3rd Respondent and quash the same and consequently forbear Respondents their men servants or agents or anyone claiming under them from in any manner compelling the petitioner to transfer the petitioners LPG Consumers to any new/ other Distributor

WP.No.21141 of 2017:-

calling for the records relating to letters dated 23.03.2017 and 16.05.2017 in CBE AO.Thirumalesha of the 3rd Respondent and quash the same and consequently forbear Respondents their men servants or agents or anyone claiming under them from in any manner compelling the petitioner to transfer the petitioners LPG Consumers to any new/ other Distributor

WP.No.21142 of 2017:-

calling for the records relating to letters dated 16.05.2017 in CBE AO.EVR of the 3rd Respondent and quash the same and consequently forbear Respondents their men servants or agents or anyone claiming under them from in any manner compelling the petitioner to transfer the petitioners LPG Consumers to any new/other Distributor

WP.Nos.22011 of 2017 to 22014 of 2017:-

forbearing the respondents their men servants or agents or anyone claiming under them from in any manner compelling the petitioner to transfer the petitioners LPG consumers to any new/other Distributor (in WP.Nos.22011 to 22014 of 2017)

WP.No.23905 of 2017:-

calling for the records relating to letters dated 13.02.2017 and 16.05.2017 in CBE AO.Kumar Gas of the 3rd Respondent and quash the same and consequently forbear Respondents their men servants or agents or anyone claiming under them from in any manner compelling the petitioner to transfer the petitioners LPG Consumers to any new/ other Distributor

WP.No.23906 of 2017:-

forbearing the respondents their men servants or agents or anyone claiming under them from in any manner compelling the petitioner to transfer the petitioners LPG Consumers to any new/other Distributor

WP.No.23907 of 2017:-

calling for the records relating to letters dated 15.04.2017 and 16.05.2017 (2 Nos.) in CBE AO.Rajalakshmi of the 3rd Respondent and quash the same and consequently forbear Respondents their men servants or agents or anyone claiming under them from in any manner compelling the petitioner to transfer the petitioners LPG Consumers to any new/ other Distributor

WP.No.23908 of 2017:-

calling for the records relating to letters dated 23.3.2017 and 16.05.2017 in CBE AO.Vaishnu Devi of the 3rd Respondent and quash the same and consequently forbear Respondents their men servants or agents or anyone claiming under them from in any manner compelling the petitioner to transfer the petitioners LPG Consumers to any new/ other Distributor

WP.No.23909 of 2017:-

calling for the records relating to letters dated 15.04.2017 and 16.05.2017 in CBE AO.Thamarai of the 3rd Respondent and quash the same and consequently forbear Respondents their men servants or agents or anyone claiming under them from in any manner compelling the petitioner to transfer the petitioners LPG Consumers to any new/ other Distributor

Prayer in WP.Nos.24743 of 2017 to 24747 of 2017:-

forbearing the Respondents their men servants or agents or anyone claiming under them from in any manner compelling the petitioner to transfer the petitioners LPG consumers to any new/other Distributor (In WP.Nos.24743 to 24747 of 2017)

WP.No.24813 of 2017:-

calling for the records relating to letters dated 23.03.2017 and 16.05.2017 in CBE AO: Jayashree Royal of the 3rd respondent and quash the same and consequently forbear the respondents their men servants or agents or anyone claiming under them from in any manner compelling the petitioner to transfer the petitioners LPG consumers to any new / other Distributor

WP.No.24814 of 2017:-

calling for the records relating to letters dated 23.03.2017 and 16.05.2017 in CBE AO: Venkateswsara of the 3rd respondent and quash the same and consequently forbear the respondents their men servants or agents or anyone claiming under them form in any manner compelling the petitioner to transfer the petitioners LPG consumers to any new / other Distributor

WP.No.24815 of 2017:-

calling for the records relating to letters dated 16.05.2017 and 10.07.2017 in CBE AO: Jayashree of the 3rd respondent and quash the same and consequently forbear the respondents their men servants or agents or anyone claiming under them form in any manner compelling the petitioner to transfer the petitioners LPG consumers to any new / other Distributor

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WP.No.28769 of 2017:-

forbearing the respondents their men servants or agents or anyone claiming under them from in any manner compelling the petitioner to transfer the petitioners LPG consumers to any new/other Distributor

WP.No.27615 of 2017

Calling for the records relating to letter dated 10.07.2017 in Ref. NO.CBE AO : Dhandapani of the 3rd Respondent and quash the same and consequently forbear Respondents their men servants or agents or anyone claiming under them from in any manner compelling the Petitioner to transfer the Petitioner LPG consumers to any new/other Distributor.

For Petitioner : Mr.AR.L.Sundaresan
in all W.Ps. Senior Counsel
for M/s.AL.Gandhimathi

For Respondents: Mr.P.Ayyaswamy, CGC
for R1 in W.Ps.21138 to 21142/2017
Mr.S.Satish Rajan, CGSC
for R1 in W.Ps.24813 to 24815/2017
Mr.T.V.Krishnamachari, SPC
for R1 in W.Ps.22011 to 25014/2017,
23905 to 23909 and 27615/2017
Mr.C.V.Ramachandramurthy, CPC
for R1 in W.Ps.24743 to 24747/2017 &
WP.28769 of 2017

Mr.T.R.Rajagopal
Senior Counsel
for Mr.Mohammed Fayaz Ali
for R2 & 3 (in all Wps)
Mr.B.Saravanan for R4
in W.Ps.21138 to 21141, 23907, 24746,
24813 and 24814 of 2017

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COMMON ORDER

In all these writ petitions, the petitioners are aggrieved against the action of the respondent Oil Corporation transferring certain numbers of LPG Consumers from the respective petitioner's distributorship to a new or other distributorship.

2.The issue involved in these cases has already been considered by this Court in W.P.No.27166 of 2017, wherein, after taking note of the order passed by the Division Bench of the Madurai Bench of this Court in W.P.(MD) No.12607 of 2017 dated 07.07.2017 followed in W.P.(MD) Nos.18923 to 18927 of 2017, etc., dated 30.10.2017, this Court disposed the said writ petition by directing the respondents therein to issue notice to the petitioner therein before effecting transfer and thereafter, to pass necessary orders within a period of two weeks, after affording an opportunity of hearing to the petitioner therein. The said order reads as follows:

"The prayer sought for in this writ petition is to forbear the respondents in any manner compelling the petitioner to transfer the petitioner's LPG customers to any new / other distributor.

2 It is seen that the issue involved in this case has already been considered by the learned single Judge of this Court at Madurai Bench of Madras High Court, by passing a common order in WP (MD) Nos.18923 to 18927 of 2017 etc., batch dated 30.10.2017 by following the order passed by the Division Bench in WP(MD).No.12607 of 2017 dated 07.07.2017. The common order passed by the learned Single Judge reads as follows:

"At this juncture, the learned counsel for the respondents would submit that when the similar issue came up for consideration before the Hon'ble Division Bench of this Court in P.Radhakrishnan Vs. Union of India and others [W.P.(MD) No.12607 of 2017] decided on 07.07.2017, while dismissing the said writ petition, it has been observed as follows:

"3. The Petroleum companies are empowered to transfer the consumers from one distributorship to another distributorship, in case, within the jurisdiction there are customers more than the ceiling. Such being the position, there is no merit in the contention taken by the petitioner.

4. We deprecate the practise of filing writ petition, immediately after making representation.

5. We dismiss the writ petition with cost quantified at Rs.5,000/-....."

Therefore, it is prayed that these writ petition have to be dismissed at the threshold with costs.

4. The right of transfer of customers from one distributorship to another distributorship is vested with the respondent Corporation and the same has been duly affirmed by the Hon'ble Division Bench of this Court in the case afore-stated. There is no quarrel with the above proposition. But, at the same time, it should be remembered that without informing as to whether the petitioner agencies have exceeded the ceiling limit, the respondent Corporation cannot unilaterally transfer its customers, which not only affects the agencies, but is also detrimental to the interest of customers.

5. Therefore, all these writ petitions are disposed of, directing the respondents to issue notice to the petitioners before effecting transfer and thereafter, pass necessary orders on the matter within a period of two weeks from the date of receipt of a copy of this order, after affording an opportunity of hearing to the petitioners. No costs. Consequently, connected miscellaneous petitions are closed."

3. Upon considering the claim made by the petitioner in this writ petition and perusing the order passed by the learned Single Judge of this Court in the above said batch of cases, I am of the view that this writ petition is also covered by the above said decision. Accordingly, this writ petition is disposed of, by directing the respondents to issue notice to the petitioner before effecting transfer and thereafter, pass necessary orders on the matter, within a period of two weeks, after affording an opportunity of hearing to the petitioner. No costs. Consequently, connected miscellaneous petition is closed."

3. Considering the fact that all these writ petitions are also similar in nature, all these writ petitions are disposed of, by directing the respondents to issue notice to the respective petitioner before effecting transfer and thereafter, to pass necessary orders on the matter, within a period of two

weeks, after affording an opportunity of hearing to the respective petitioner. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vri

To

1. The Secretary to Government of India,
Union of India,
Ministry of Petroleum and Natural Gas,
A-Wing, Shastri Bhavan, Dr.Rajendra Prasad Road,
New Delhi-110 001
2. The Managing Director
Indian Oil Corporation
G-9, Ali Yavar, Jung Marg,
Bandra (East) Mumbai-400 051
3. The Deputy General Manager(LPG-S)
Indian Oil Corporation Ltd.,
No.8/1079, Avinashi Road,
Coimbatore - 641 018
4. The Chief Area Manager,
Indian Oil Corporation Ltd.,
Indane Area Office, 500-Anna Salai
Teynampet, Chennai-18
5. The Chief Area Manager,
Indian Oil Corporation Ltd.,
Indane Area Office, B-35, Triveni, II Floor,
Sastri Road, Thillainagar, Trichy-16
6. The Chief Area Manager,
Indian Oil Corporation Ltd.,
Indane Area Office, 139,
Nungambakkam High Road, Chennai-34
7. The Senior/Cheif Area Manager,
Indian Oil Corporation Ltd.,
No.8/1079, Avinashi Road,
Coimbatore-641 018

+3ccs to Mrs.AL.Gandhimathi, Advocate in sr.no.89743
+1cc to Mr.T.V.Krishnamachari, Advocate in sr.no.89258
+3ccs to Mr.S.Sathish Rajan, CGSC in Sr.nos.89345 to 89347
+1cc to Mr.Md.Fayaz Ali, Advocate in Sr.no.89400
+8ccs to Mr.B.Saravanan, Advocate in Sr.no.89325 to 89332

W.P.Nos.21138 to 21142, 22011 to
22014, 23905 to 23909, 24743 to
24747, 24813 to 24815, 28769, 27615
of 2017

CA (CO)
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