

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 16.11.2017
CORAM
THE HONOURABLE MR.JUSTICE K. RAVICHANDRABAABU
W.P.No.27166 of 2017
and
WMP.No.29022 of 2017

M/s.Sri Gowri Durga Gas Service
Through its Proprietor
Mr.D.Samivelu
271, Kongu Main Road,
Tiruppur - 641 607.

... Petitioner

vs.

1. Union of India
Rep. by the Secretary
Ministry of Petroleum and Natural Gas
Shastri Bhavan, New Delhi.
2. The Regional LPG Manager
Bharat Petroleum Corporation Limited
No.1, Renganathan Garden Off 11th Main Road
Anna Nagar West, Chennai-600 040.
3. The Territory LPG Manager
Bharat Petroleum Corporation Limited
Post Box No.1644 Peelamedu
Coimbatore - 641 004.
4. M/s.SKA Bharat Gas Agency
Rep. by its Partner
T.Santha Sathiaselvan
D.No.185-1, Anaipalayam
College Road, Tiruppur - 641 603.
5. Appatha Bharat Gas Services
4/206/6, Pollachi Road
Velliampalayam, Koduvai - 638 660
Tiruppur District.

...Respondents

(R4 & R5 impleaded by the order of this Court dated 16.11.2017
in WMP.Nos.30813 & 31183 of 2017 in WP.No.27166 of 2017)

PRAYER:

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, forbearing the respondents, their men, servants or agents or anyone claiming under them from in any manner compelling the petitioner to transfer the petitioner's LPG Consumers to any new / other Distributor, within a period stipulated by this Honourable Court.

For Petitioner : Mrs.G.Manimegalai

For Respondents: Mr.K.Raju, CGSC for R1

Mr.M.Vijayan for M/s.King & Patridge,
for R2 & R3

Mr.B.Saravanan for R4

Mr.T.Gowthaman for R5

O R D E R

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.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mk

To

1. The Secretary
Union of India
Ministry of Petroleum and Natural Gas
Shastri Bhavan, New Delhi.
2. The Regional LPG Manager
Bharat Petroleum Corporation Limited
No.1, Renganathan Garden Off 11th Main Road
Anna Nagar West, Chennai-600 040.
3. The Territory LPG Manager
Bharat Petroleum Corporation Limited
Post Box No.1644 Peelamedu
Coimbatore - 641 004.

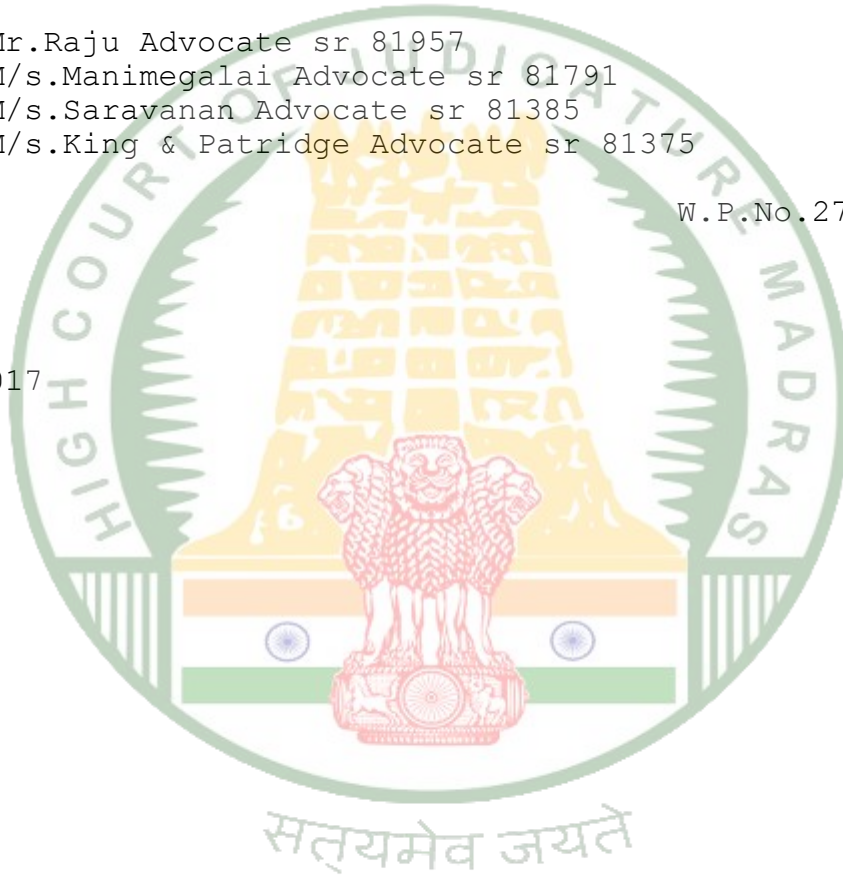
4. M/s.SKA Bharat Gas Agency
Rep. by its Partner
T.Santha Sathiaselvan
D.No.185-1, Anaipalayam
College Road, Tiruppur - 641 603.

5. Appatha Bharat Gas Services
4/206/6, Pollachi Road
Velliampalayam, Koduvai - 638 660
Tiruppur District.

+1 cc to Mr.Raju Advocate sr 81957
+1 cc to M/s.Manimegalai Advocate sr 81791
+1 cc to M/s.Saravanan Advocate sr 81385
+1 cc to M/s.King & Patridge Advocate sr 81375

W.P.No.27166 of 2017

mg(co)
aa24/11/2017



WEB COPY