

THE HON'BLE SRI JUSTICE RAJA ELANGO

WRIT PETITION Nos.18923 OF 2009 AND 36794 OF 2016

COMMON ORDER:

Both the writ petitions are heard together and are being disposed of by this common order, as the subject matter of both the writ petitions is one and the same.

The writ petition No.18923 of 2009 is filed seeking a writ of mandamus declaring the letter in Ref.APSO/L/S/3017, dated 25.08.2009 of the first respondent as violative of principles of natural justice, arbitrary and illegal and consequent to set aside the same, and direct the respondent to continue the LPG Distributorship (domestic and commercial) of the petitioners.

The writ petition No.36794 of 2016 is filed seeking a writ of mandamus declaring order, dated 16.11.2015 in reference No.TAPSO/L/S/3017 passed by the third respondent whereby rejecting the representation submitted by the petitioner, dated 13.07.2014 for restoration of dealership and also to declare the order 25.08.2009 in reference No.APSO/L/S/3017 passed by the first respondent on the ground that one of the partners of the distributorship i.e., second petitioner, was convicted by the criminal Court, as illegal and arbitrary, and consequently to set aside the order, dated 16.11.2015 in reference No.TAPSO/L/S/3017 passed by the third respondent and also termination order, dated 25.08.2009 in reference No.APSO/L/S/3017 passed by the first respondent.

Heard and perused the material.

The petitioners in W.P.No.18923 of 2009 are partners of the Miryalaguda Gas Agencies along with one G.Rama Rao, who is the second petitioner in W.P.No.36794 of 2016. W.P.No.18923 of 2009 was filed challenging the letter, vide Ref:APSO/L/S/3017, dated 25.08.2009,

whereby the LPG distributorship allotted to the petitioners was terminated on the ground that one of the partners, i.e., the second petitioner in W.P.No.36794 of 2016 was convicted by the Court of Special Sessions Judge for Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act at Nalgonda, for the offences under Sections 302 and 201 IPC and in the said writ petition, an interim order was passed in favour of the petitioners for a period of two weeks and thereafter, the same was not extended. In the meanwhile, by way of adhoc arrangement, the supply of gas cylinders was allotted to another dealer.

W.P.No.36794 of 2016 is filed challenging the rejection of the representation made by the petitioners on the ground that the second petitioner, who was convicted for the offences under Sections 302 and 201 IPC, was subsequently acquitted by the competent appellate Court, and as such, the earlier order of the respondents terminating the distributorship to the petitioners, is to be re-considered and distributorship is to be restored to the petitioners. The said representation is also rejected by the third respondent vide Reference No.TAPSO/L/S/3017, dated 16.11.2015, on the ground that the writ petition filed by the petitioners in the year 2009 is pending before this Court and as such, the matter is *sub judice*, and also on the other ground that as per the Policy Guidelines, dated 03.12.2007, the petitioners are not eligible for restoration of LPG distributorship.

This Court is of the view that pendency of the writ petition being W.P.No.18923 of 2009 will not stand in the way of respondents to take a decision on receipt of the information that one of the partners, i.e., the second petitioner in W.P.No.36794 of 2016, was acquitted by the appellate Court and that the offence is also not affecting the moral turpitude of the said partner. Apart from that, the contention of the respondents that the restoration of the LPG distributorship cannot be

restored on the basis of the Policy Guidelines, dated 03.12.2007 is not acceptable by this Court, since the distributorship was granted to the petitioners on the basis of the Guidelines pertaining to 1985 and they are running the said Agency till the rejection order passed by the respondents vide letter dated 25.08.2009. The LPG distributorship of the petitioners was in existence during the introduction of the Policy Guidelines, dated 03.12.2007. Hence, both the writ petitions are disposed of as follows.

The action of the respondents, vide Ref.APSO/L/S/3017, dated 25.08.2009, in terminating the LPG Distributorship on the ground that one of the partners, i.e., the second petitioner in W.P.No.36794 of 2016, was convicted for the offences under Sections 302 and 201 IPC, is not interfered with by this Court. But, at the same time, in view of the acquittal of the said partner by the appellate Court, necessarily LPG Distributorship shall be restored in favour of the petitioners. The rejection on the basis of the Policy Guidelines, dated 03.12.2007 is not merit acceptance by this Court since the LPG Distributorship of the petitioners was in existence during 2009 though the Guidelines were introduced in 2007 itself. Hence, the rejection order, vide Ref.No.TAPSO/L/S/3017, dated 16.11.2015, is set aside and respondents are directed to restore the LPG Distributorship to the petitioners forthwith.

The writ petitions are accordingly disposed of. Consequently, miscellaneous petitions, if any shall also stand disposed of.

JUSTICE RAJA ELANGO

30.01.2017
pln