

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2018

CORAM:

THE HONOURABLE MR. JUSTICE T.RAJA

W.P.Nos.9358 and 9359 of 2018

and

W.M.P.Nos.11168, 11169 and 11170 of 2018

M/s.Kandhan Bharat Gas Service,
Rep. By its Partner,
K.Senthilkumar. ... Petitioner in W.P.No.9358/2018

M/s.Sabarhi Bharat Gas,
Rep. By its Partner,
S.S.Raghul. ... Petitioner in W.P.No.9359/2018

.. Vs ..

1. Co-Ordination of Consumer Association,
Tamil Nadu (CAT),
Rep. By its Treasurer,
Mr.R.Sindhu Subramani,
(Reg. No.90/17)
No.55, Mahaliamman Koil (opp),
Kongu Main Road,
Tiruppur.

2. Bharat Petroleum Corporation Ltd.,
Rep. By its Territory Manager (LPG),
Post Box No.1644,
Coimbatore LPG Territory,
Peelamedu,
Coimbatore - 641 004.

3. Indian Oil Corporation,
Rep. By its Area Manager,
Indane Area Office,
8/1079, Avinashi Road,
Coimbatore - 641 018.

4. Hindustan Petroleum Corporation Ltd.,
Rep. by its Regional Manager,
Kochi LPG Regional Office,
HPCL Kochi,
Seaport - Airport Road,
Irumbaram, Ernakulam,
Kerala - 682 030.

5. The Distributors of BPCl,
Post Box No.1644,
Coimbatore LPG Territory,
Peelamedu,
Coimbatore - 641 004.

6. The Distributors of IOCL,
Indane Area Office,
8/1079, Avinasi Road,
Coimbatore - 641 018.

7. The Distributors of HPCL,
Post Box No.1644,
Coimbatore LPG Territory,
Peelamedu,
Coimbatore - 641 004.

... Respondents in both W.Ps.

Prayer in both W.Ps.:— Writ Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Prohibition prohibiting the District Consumer Redressal Forum, Coimbatore from proceeding further with the case in C.C.Nos.56 and 57 of 2018 dated 08.03.2018 filed by the first respondent herein as the same amounts to exercising jurisdiction not vested with District Consumer Forum and without jurisdiction and contrary to the provisions of the Consumer Protection Act 1986 and relevant Rules.

In both W.Ps.

For Petitioners : Mr.B.Saravanan

For R-1 and R.3 to R.7 : No Appearance

For R-2 : Mr.M.Vijayan
for M/s.King & Partridge

COMMON ORDER

These two writ petitions have been filed by the petitioners seeking to issue a writ of prohibition prohibiting the District Consumer Redressal Forum, Coimbatore, from proceeding further with the case in C.C.Nos.56 and 57 of 2018 respectively dated 08.03.2018 filed by the first respondent herein, as the same amounts to exercising jurisdiction not vested with District Consumer Forum and without jurisdiction and contrary to the provisions of the Consumer Protection Act, 1986 and relevant Rules.

2. Mr.B.Saravanan, learned counsel appearing for the petitioner in both the writ petitions submitted that the complaints filed by the first respondent seeking a direction to the oil companies not to transfer the existing gas connections of the members/consumers of the complainant associations and all other existing consumers of the

Distributors in the District without the consent or seeking option from them as they are wholly without any jurisdiction. The reason being, a Division Bench of the Madurai Bench of this Court had an occasion to deal with an identical issue relating to obtaining consent from the concerned consumer in writing for transferring LPG Domestic Cylinder consumers from one dealer to another in W.P.(MD) No.12607 of 2017 and by its order dated 07.07.2017, the Division Bench has held that the petroleum companies are empowered to transfer consumers from one distributor to another distributor, if the consumers are more than the ceiling limit and dismissed the writ petition. A similar prayer has been made by the first respondent in their complaints before the District Consumer Redressal Forum, Coimbatore, who have no jurisdiction. Therefore, the very same issue cannot be adjudicated by the District Consumer Forum. The reason is that the issue as to whether the consent has to be obtained from the LPG consumer, is not an issue falling under the purview of the Consumer Protection Act, 1986 and the Rules framed thereunder. Therefore, the complaints filed before the District Consumer Redressal Forum, Coimbatore, are totally without any jurisdiction. Therefore, this Court, exercising its extraordinary jurisdiction conferred under Article 226 of the Constitution of India, and by following the earlier order passed by the Division Bench of this Court in W.P.(MD) No.12607 of 2017 dated 07.07.2017 dealing with the same identical issue, should quash the pending complaints, failing which all the oil companies would be put to grave problem and that would have a dire consequences on the poor consumers. But this Court is unable to appreciate the submissions made by the learned counsel appearing for the petitioners for the simple reason that when the Consumer Protection Act, 1986 is an Act giving appeal remedy as against the order passed by the District Consumer Forum to the State Commission and as against the order if any passed by the State Commission, further appeal and revision to the National Commission and as against that, further revision and appeal to the Supreme Court, the petitioners have to approach only the State Commission as per law.

3. It is at this juncture Mr.B.Saravanan, learned counsel appearing for the petitioner in both the petitions submitted that although an interim order has been granted by the District Consumer Redressal Forum, Coimbatore, the petitioners were not made as parties. Therefore, they are unable to approach the State Commission for any further remedy. Alternatively, a joint submission was made before this Court that a direction may be given to the District Consumer Redressal Forum to take up the pending matters as expeditiously as possible and pass appropriate orders to consider the maintainability of the complaints.

4. Recording the said submission made by the learned counsel appearing for the petitioners, liberty is given to the petitioners to make a mention before the District Consumer

Redressal Forum, Coimbatore, along with a copy of this order and if any such mention is made requesting the District Consumer Redressal Forum, Coimbatore, to take up the maintainability of the pending complaint Nos.56 and 57 of 2018 respectively, it is for the District Consumer Redressal Forum, Coimbatore, to consider the same as expeditiously as possible, preferably, within a period of 15 days from the date of receipt of a copy of this order.

5. With the above observations, both the Writ Petitions stand disposed of. No costs. The connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

Jr1
To

1. The Treasurer,
Co-Ordination of Consumer Association,
Tamil Nadu (CAT),
Mr.R.Sindhu Subramani,
(Reg. No.90/17)
No.55, Mahaliamman Koil (opp),
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Peelamedu,
Coimbatore - 641 004.

+ 2 ccs to M/s. T. Sundasavadanam, Advocate Sr.30528, 30529
+ 2 ccs to M/s. King & Partridge, Advocate Sr.30572

W.P.Nos.9358 & 9359/2018

SG(CO)
EU(04/05/2018)



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