

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2018

CORAM:

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.29777 of 2018
and W.M.P.No.34750 of 2018

M/s Dev Keerthi Bharatgas Agencies,
rep. by its Partner T.Sarankumar,
No.17/4, Cheran Street,
Hasthampatty, Salem - 636 007

... Petitioner

Vs.

The Territory Manager-LPG,
Bharat Petroleum Corporation Limited,
Post Box No.1644, Peelamedu,
Coimbatore - 641 004

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records of the respondent relating to the impugned notice of the respondent in CBE:LPG:3:33:CON dated 24.10.2018 and quash the same.

For Petitioner : Mr. T.Gowthaman
For Respondent : Mr. M.Vijayan
for M/s.King and Patridge

ORDER

This Writ Petition has been filed to call for the records of the respondent relating to the impugned notice of the respondent in CBE:LPG:3:33:CON dated 24.10.2018 and quash the same.

2. The petitioner is the LPG Distributor who has got the distributorship from the respondent concern. The distributorship was awarded to the petitioner only after thorough scrutiny including physical field verification by the respondent authorities. The petitioner also had furnished all the documents that are required in that regard to the respondent.

3. While so, the petitioner was served with a communication dated 26.06.2018 by the respondent along with a complaint supposedly received by the respondent seeking its explanation. In response to the same, the reply was sent by the petitioner on 19.07.2018. However, one more show cause notice, which is now impugned in this writ petition, in proceedings CBE:LPG:3:33:CON dated 24.10.2018 was received by the petitioner, wherein, the termination clause has been quoted and the petitioner was asked to show cause as to why action should not be taken against them. The said notice only stated that the original location in the advertisement was given as Salem (Cherry Road) and that the petitioner's showroom is not found in the same location as per the advertisement.

4. It is admitted case of the petitioner that he is running the distributorship only in the same address which was given at the time of getting the distributorship and also having his dealership for the past two years. Thereafter, the respondent had again verified all the particulars and also conducted physical field verification. Hence, the show cause notice issued is illegal and not justified.

5. It is a settled principle that show cause notice cannot be challenged in writ petitions. The mere reason that the respondent has quoted the termination clause in the show cause notice which has created an apprehension in the mind of the petitioner is not a ground to file this writ petition, without even giving an explanation for the said notice. The show cause notice says only if there is a difference of address that are furnished by the petitioner at the time of applying for the distributorship and the present address, the termination clause will be invoked. It is always open to the petitioner to appear before the respondent authorities and make the submission to clarify the position.

6. The respondent is also directed to give an opportunity of personal hearing to the petitioner before proceeding further and a date may be fixed by them which shall be duly communicated to the petitioner. However, such exercises is to be completed within a period of four(4) weeks from the date of receipt of copy of this order.

7. With the above directions, this writ petition is disposed of. Consequently, the connected miscellaneous petition is closed. No Costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

TO

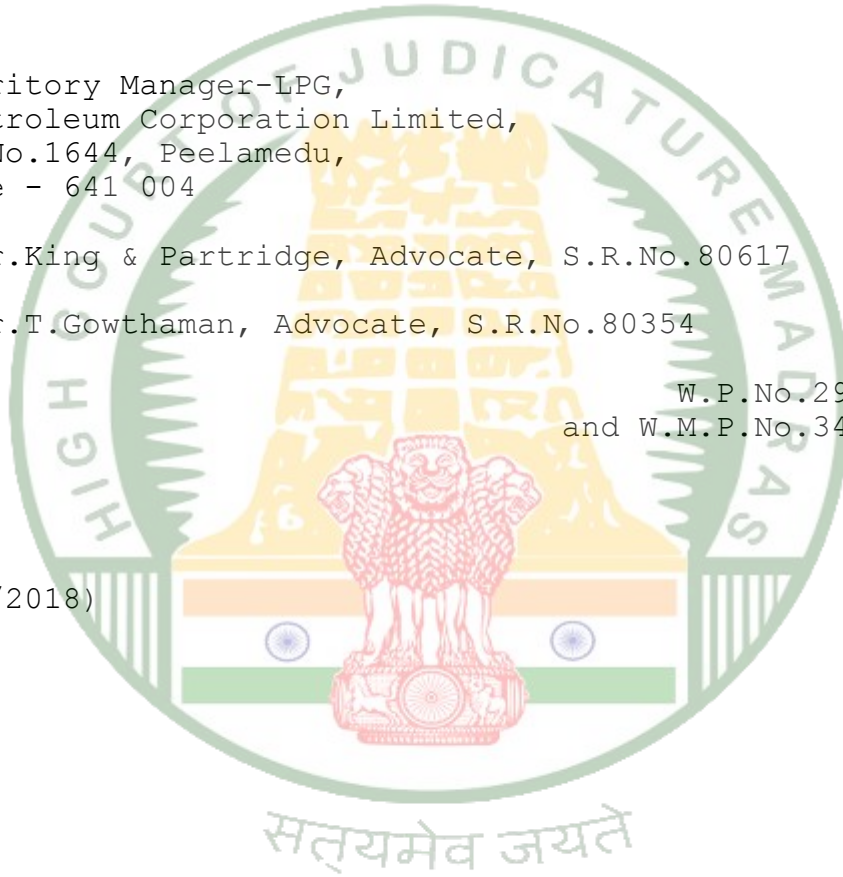
1.The Territory Manager-LPG,
Bharat Petroleum Corporation Limited,
Post Box No.1644, Peelamedu,
Coimbatore - 641 004

+1cc to Mr.King & Partridge, Advocate, S.R.No.80617

+1cc to Mr.T.Gowthaman, Advocate, S.R.No.80354

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KK(CO)
GSP(18/12/2018)



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