

6 to 9.
29.09.2021
S.D.

WPA 23055 of 2019
With
CAN 1 of 2020
(Old No. CAN 140 of 2020)
With
CAN 2 of 2020
(Old No. CAN 187 of 2020)
With
CAN 3 of 2020
(Old No. CAN 3499 of 2020)
with
CAN 4 of 2020
(Old No. CAN 3501 of 2020)

Ashok Kumar Choraria
Vs.
Hindustan Petroleum Corporation Ltd. & Ors.
With
WPA 23061 of 2019
With
CAN 1 of 2020
(Old No. CAN 144 of 2020)
With
CAN 2 of 2020
(Old No. CAN 198 of 2020)
With
CAN 3 of 2020
(Old No. CAN 3488 of 2020)
With
CAN 4 of 2020
(Old No. CAN 3490 of 2020)

M/s. Tasveer Sohi
Vs.
Indian Oil Corporation Ltd. & Ors.
With
WPA 23065 of 2019
With
CAN 1 of 2020
(Old No. CAN 201 of 2020)

With
 CAN 2 of 2020
 (Old No. CAN 3484 of 2020)
 With
 CAN 3 of 2020
 (Old No. CAN 3485 of 2020)

M/s. G.K. Enterprises
 Vs.
 Indian Oil Corporation Ltd. & Ors.

With
 WPA 23181 of 2019
 With
 CAN 1 of 2020
 (Old No. CAN 127 of 2020)
 With
 CAN 2 of 2020
 (Old No. CAN 268 of 2020)
 With
 CAN 3 of 2020
 (Old No. CAN 3496 of 2020)
 With
 CAN 4 of 2020
 (Old No. CAN 3497 of 2020)

Radhika Associates
 Vs.
 Indian Oil Corporation & Ors.

Mr. Sirsanya Bandyopadhyay
 Mr. Arka Kumar Nag
 Mr. Soham Kumar roy
 Ms. Deboleena Ghosh
 Mr. Rahul Kumar Singh

....for the petitioners in all
 Writ applications.

Md. T.M. Siddiqui
 Mr. N. Chatterjeefor the State in
 WPA 23055 of 2019
 WPA 23061 of 2019

Md. T.M. Siddiqui
 Mr. D. Ghoshfor the State in
 WPA 23065 of 2019

WPA 23181 of 2019

Mr. M.S. Yadav

...for the Indian Oil Corporation in
WPA 23061 of 2019
WPA 23065 of 2019
WPA 23181 of 2019

Mr. Prasun Mukherjee

Mr. Deepak Agarwal

...for the H.P.C.L. in
WPA 23055 of 2019

All these groups of writ petitions are being clubbed together as common issues are involved and by a common judgment they can be disposed of.

At the outset, Mr. Sirsanya Bandyopadhyay, learned counsel for the petitioners points out that a Coordinate Bench has decided similar matter which is being governed by a decision of the Division Bench of this Hon'ble Court passed in M.A.T. 487 of 2020 (CAN 4418 of 2020, CAN 4420 of 2020) vide order dated 24.8.2020 and M.A.T. 488 of 2020 and straight way relied on the observations and findings including concluding portion of the decision appearing from page 6 and the same is reproduced hereunder for profitable consideration.

"The appellant will be entitled to take physical verification to verify the quantum of investment if the appellant finds any glaring error in the inquiry conducted by the DIC, it will be entitled to bring such perceived error to the notice of DIC for appropriate action in accordance with law. Thus, the relevant DIC in this case will physically verify the quantum of investment and other particulars which had

been furnished by the writ petitioner at the time that it applied for its certification as a micro or small enterprise. The verification will be conducted on the basis of the rules that obtained at the time the application was made and not by the present rules. Upon conduct of such verification, the relevant DIC will call upon the writ petitioner to either amend its memorandum or cancel its memorandum or require it to take no action at all. However, a written communication in such regard must be issued by the relevant DIC to the writ petitioner within six weeks from date.

For a period of eight weeks from date, no coercive action will be taken by the appellant to terminate the contract subsisting in favour of the writ petitioner. The writ petitioner will be obliged to forward the communication received from the relevant DIC, consequent upon the inquiry being conducted, within a week of the receipt thereof to the appellant. The appellant will be entitled to take appropriate action thereupon in accordance with law.

The learned Additional Advocate General has submitted that the DIC does not have resources or ample manpower to carry out the physical verification in all cases and has drawn our attention to the observation made by a co-ordinate Bench in the order dated 14th August, 2020 in which the Hon'ble Division Bench observed that since the physical verification in the said case was directed, as a one-off-case, to be conducted by the DIC, the appellants in that matter would not thereafter conduct any physical verification of the quantum of investment or other particulars pertaining to the writ petition. The learned Additional Advocate General has no objection in the event the appellants conduct physical verification and submit a report to the DIC.

Mr. Bandyopadhyay, learned Advocate for the respondent No.1/writ petitioner, however, submits that no jurisdiction shall be conferred on the appellants as under the scheme of things it is for the DIC to carry out such inspection, which however has been opposed by Mr. Majumder.

In view of the aforesaid submission, we permit the appellants to conduct physical verification to verify the quantum of investment. If the appellants find any glaring error initially conducted by the DIC, it would be entitled to

bring such perceived errors to the notice of the DIC to take appropriate action in accordance with law and upon notice to the respondent No.1.

We make it clear that by this order, we have not conferred any jurisdiction upon the appellants with the duties of the DIC but it is only to facilitate the DIC if the occasion arises to arrive at a proper finding.”

Learned Counsel for the Oil Company also relied on the said decision of Division Bench of the Hon’ble Court, aforesaid and submits for similar direction.

Having heard learned counsel for all the parties and having regard to the decision of the Division Bench of this Hon’ble Court, the writ applications being WPA 23055 of 2019 and the applications being CAN 1 of 2020 (Old No. CAN 140 of 2020), CAN 2 of 2020 (Old No. CAN 187 of 2020), CAN 3 of 2020 (Old No. CAN 34699 of 2020) and CAN 4 of 2020 (Old No. CAN 3501 of 2020), WPA 23061 of 2019 and the applications being CAN 1 of 2020 (Old No. CAN 144 of 2020), CAN 2 of 2020 (Old No. CAN 198 of 2020), CAN 3 of 2020 (Old No. CAN 3488 of 2020) and CAN 4 of 2020 (Old No. CAN 3490 of 2020), WPA 23065 of 2019 and the applications being CAN 1 of 2020 (Old No. CAN 201 of 2020), CAN 2 of 2020 (Old No. CAN 3484 of 2020) and CAN 3 of 2020 (Old No. CAN 3485 of 2020) and WPA 23181 of 2019 and the applications being CAN 1 of 2020 (Old No. CAN 127 of 2020), CAN 2 of 2020 (Old No.

CAN 268 of 2020), CAN 3 of 2020 (Old No. CAN 3496 of 2020) and CAN 4 of 2020 (Old No. CAN 3497 of 2020) are disposed of in terms of the direction embodied in the said decision dated August 24, 2020 in M.A.T. 488 of 2020 (Hindustan Petroleum Corporation Ltd. & Ors. Vs. Abhishek Khanna & Ors.)

(Shivakant Prasad, J.)