

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.01.2020

PRONOUNCED ON : 14.02.2020

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.NO.15060 OF 2019

AND

W.M.P.NO.15037 OF 2019

IPOUR GKC & RKC & SONS,
A Partnership Firm representation by their Managing Partner,
Shri.Ramakrishnan Ipour,
Having registered office at No.254, Lal Bahadur Shastri Street,
Puducherry - 605 001.

... Petitioner

..Vs..

1. Hindustan Petroleum Corporation Ltd., (HPCL)
A Public Ltd., Company,
Through the General Manager (South),
No.8, No.1, Thalamuthu Natarajan Building,
4th Floor Gandhi Irwin Road,
Egmore, Chennai - 600 009.
2. The Deputy General Manager (Trichy Retail Region),
Hindustan Petroleum Corporation Ltd.,
Having Regional Officer No.90, Second Floor, MDSR Enclave,
Bharathidasan Road, Cantonment,
Trichy - 620 001.
3. The Chief Regional Manager,
Hindustan Petroleum Corporation Ltd.,
Having Regional Office No.90, Second Floor, MDSR Enclave,
Bharathidasan Road-Cantonment,
Trichy - 620 001.
4. Mr.I.M.Manickam .. Respondents

PRAYER:-

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to impugned communication bearing Ref.No.TRRO/RN/RET dated 20.05.2019 issued by the 2nd respondent in continuation of decision communicated by the 3rd

respondent to the petitioner's firm vide communication bearing Ref.No.TRO/DG-LEG/RET dated 31.12.2015 and quash the same and consequently direct the respondent Nos. 1 to 3 to regularise the reconstitution proposal submitted by the petitioner's firm.

For Petitioner : Mr.M.Vaikunth

For Respondents : Mr.O.R.Santhanakrishnan
for R1 to R3.
Mr.Sai Krishnan
for R4.

ORDER

This Writ Petition has been filed in the nature of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned communication bearing Ref.No.TTRO/RN/RET dated 20.05.2019, issued by the 2nd respondent, namely, the Deputy General Manager (Trichy Retail Region), Hindustan Petroleum Corporation Ltd. Trichy in continuation of a decision communicated by the third respondent, namely, the Chief Regional Manager, Hindustan Petroleum Corporation Ltd., and quash the same and to further direct the first, second and third respondents to regularize the reconstitution proposal submitted by the petitioner firm.

2. In the affidavit filed in support of the writ petitioner, IPOUR GKC & RKC & SONS, a Partnership Firm represented by their Managing Partner, Shri. Ramakrishnan Ipour, having registered office at No.254, Lal Bahadur Shastri Street, Puducherry, it is stated that the petitioner was originally constituted with three partners viz i) I.R.Muniswamy Chettiar, (ii) Susila Devi and (iii) I.M.Manickam. On 15.04.1986, a Dealership Agreement was signed between the petitioner firm and the respondent Corporation for supply of petrol and petroleum related products and the petitioner firm was granted Petrol Bunk Dealership on various terms and conditions. It is stated that the petitioner has been successfully running the Petrol Bunk from the year 1986, till date. It is further stated that on 09.02.1990, 30.11.1993 & 15.12.1993, three family arrangements were arrived among the family members. The third partner I.M.Manickam, executed a Release Deed dated 30.11.1993, relinquishing all his rights and interests. Similarly, one Rajalakshmi, daughter of I.M.Munisamy also released her right in favour of her three brothers, by way of a notarised letter dated 28.09.1998. Necessarily, the partnership firm had to be reconstituted. An application for reconstitution of the firm was submitted before the 1st respondent Corporation along with the No Objection Certificate/Consent Letters from erstwhile partners and the Family Arrangements & Release Deeds. But, the 1st respondent did

not consider the application. The 4th respondent herein I.M.Manickam, had also submitted "No Objection Certificate" way back on 12.07.1996 & 25.10.1996. Thereafter, the Chief Regional Manager, Hindustan Petroleum Corporation Ltd., convened a meeting of the partners and the outgoing partner and thereafter, permitted reconstitution of the partnership firm. In the year 2012, the respondent sent an application duly signed by all the family members. Though it was presented before the first respondent, they refused to receive it, since the signature of I.M.Manickam was not affixed in the same. It was stated by the petitioners that the signature of I.M.Manickam was not necessary, since he had already released and relinquished his share. Under these circumstances, an earlier W.P.No. 9064 of 2015 was filed by the petitioner. This was disposed of with the following observations.

" 21. The Corporation is directed to process the Application for reconstitution forthwith. It is open to the corporation to direct the applicants to produce the required documents for taking further action, in case the documents submitted already are not sufficient. Since, the petitioner has produced the no objection form Thiru. I.M.Manickam and release deed earlier, there is no need for production of fresh letter of no objection. It is open to the Corporation to issue notice to Thiru.I.M.Manickam, enclosing a copy of the release deed executed by him and the no objection given for reconstitution to appear on particular date to confirm the genuineness of the documents. In case of his failure to respond or submission of objection to the proposal for reconstitution, the Corporation is at liberty to take a decision on merits and in accordance with law. Such exercise shall be completed on or before 31-12-2015. The status quo as indicated in the letter dated 12.02.2015 shall be maintained till a decision is taken by the Corporation in the matter of reconstitution."

3. Thereafter, the third respondent sent a further communication dated 18.12.2015 to all the partners and legal heirs of I.R.Muniswamy Chettiar, including I.M.Manickam (4th respondent). Unfortunately, M.Susila Devi, who was one of the original partner was admitted in Pondicherry Institute of Medical Science (PIMS), Kalapet on 28.12.2015. She, however, gave a letter on 23.12.2015, confirming the release deed dated 30.11.1993. It is stated that I.M.Manickam had appeared before the respondent Corporation on 28.12.2015 and he confirmed the release dated 30.11.1993. On 25.10.1996, in respect of the same,

the respondent Corporation had passed the impugned order on 25.02.2020, whereby, they have stated that they are not prepared to accept the reconstitution and they have forwarded a fresh re-constitutional application along with the said order. Questioning that order, the present writ petition has been filed.

4. A Counter affidavit has been filed by the respondent Corporation, in which they have stated that in accordance with the dealership agreement, if there is re-constitution of the firm, then all the partners have to necessarily give requisite consent. It is stated that the impugned order is not illegal and is not in violation of any order passed by this Court earlier. It is also stated that two of the legal heirs of I.RMuniswamy Chettiar did not appear during the personal hearing. Though the 4th respondent confirmed the release deed, he had contended that the family arrangements were not honoured by all the parties and there were several internal litigations. It was only under these circumstances, that the interim order came to be passed and the respondent sought to justify the same.

5. Heard arguments.

6. It is a fact that, originally, the petitioner firm IPOUR GKC & RKC & SONS, a Partnership Firm represented by their Managing Partner, Shri. Ramakrishnan Ipour, having registered office at No.254, Lal Bahadur Shastri Street, Puducherry, had taken a dealership with the respondents to run a petrol bunk. On 15.04.1986, a Dealership Agreement was signed by the original partners of the firm and the respondent Corporation. The petitioner is running a Petrol Bunk from the year 1986, till date. In order to re-constitute the partnership firm, on 09.02.1990, 30.11.1993 & 15.12.1993, three family arrangements were arrived among the family members. The third signatory I.M.Manickam had relinquished his share in favour of his brothers Udhayasankar Ipour and Radjasegarane Ipour and Ramakrishnan Ipour. It is also stated that the mother of the petitioner S.Susila Devi had also executed release deed on 30.11.1993 & 23.12.2015. I.M.Manickam had also given letters on 12.07.1996 & 25.10.1996 to the respondent Corporation that he has no objection for the reconstitution of the partnership firm. It is under these circumstances, that writ petitioner originally filed W.P.No. 9064 of 2015. This Court passed the following order in the said Petition;

" 21. The Corporation is directed to process the Application for reconstitution forthwith. It is open to the corporation to the direct the applicants to produce the required documents for taking further action, in case the documents

submitted already are not sufficient. Since, the petitioner has produced the no objection form Thiru. I.M.Manickam and release deed earlier, there is no need for production of fresh letter of no objection. It is open to the Corporation to issue notice to Thiru.I.M.Manikam, enclosing a copy of the release deed executed by him and the no objection given for reconstitution to appear on particular date to confirm the genuineness of the documents. In case of his failure to respond or submission of objection to the proposal for reconstitution, the Corporation is at liberty to take a decision on merits and in accordance with law. Such exercise shall be completed on or before 31-12-2015. The status quo as indicated in the letter dated 12.02.2015 shall be maintained till a decision is taken by the Corporation in the matter of reconstitution."

7. It is seen that I.M.Manickam (the 4th respondent) appeared before the respondents on 28.12.2015 and confirmed the genuinity of the release deed dated 30.11.1993 and the no objection certificate, dated 25.10.1996 signed by him. According to the order in W.P.No.9064 of 2015, since I.M.Manickam had given a no objection certificate, there was no need for production of fresh letter of no objection. It was further stated that it is open to the respondent Corporation to issue notice to the said I.M.Manickam, calling him to confirm the genuiness of the documents. It was also stated that the respondent Corporation is at liberty to decision on merits and in accordance with law.

8. I hold that the respondent Corporation are not justified in not recognizing the reconstitution of the petitioner firm. The impugned communication is set aside. A direction is issued to the respondent Corporation to regularize the re-constitution proposals submitted by the petitioner firm on or before 15.03.2020.

9. The writ petition stands allowed on the above terms. No order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS I)

//True Copy//

Sub Assistant Registrar

kmm

To

1. Hindustan Petroleum Corporation Ltd., (HPCL)
A Public Ltd., Company,
Through the General Manager (South),
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Having Regional Office No.90, Second Floor, MDSR Enclave,
Bharathidasan Road-Cantonment,
Trichy - 620 001.

+1cc to Mr.O.R.Santhanakrishnan, Advocate, S.R.No.12956

+1cc to Mr.Sai Krishnan, Advocate, S.R.No.12833

+1cc to Mr.M.Vaikunth, Advocate, S.R.No.12794

W.P.No.15060 of 2019
and
W.M.P.No.15037 of 2019

PM(CO)
CS/18/02/2020



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