

OA.Nos.538 & 539 of 2020

P.T.ASHA, J.,

OA.No.538 of 2020

Mr. O.R. Santhanakrishnan had entered appearance on behalf of the respondent and has also filed a common counter affidavit in both the above applications.

2. He would submit that in compliance of the orders of this Court passed in OA.No.538 of 2020, the respondent has resumed the supply of diesel to the applicant's retail outlet, which supply would be continued uninterrupted. As regards the resumption of supply of petrol, the respondent in their counter affidavit has contended that the applicant had sent their reply to the show cause notice and that the competent authority will take a final decision on the same after affording a personal hearing to the applicant as indicated in the orders of this Court dated 22.10.2020.

3. Mr. Srinath Sridevan, learned counsel, appearing on behalf of Mr.R.Vishnu, learned counsel for the applicant would submit that the reasons given by the respondent for the suspension of the supply does not come into any of the categories stipulated in the Marketing Discipline Guidelines Chapter 8 under Clause 8.2 or 8.3. At best, it would come only under the category of Clause 8.4 (i), (ii) and (iii). He would submit that under Clause 8.5.2., all cases of irregularities needs to be first established before any action is taken against the dealer and in the instant case such a case has not been undertaken. He would submit that the Committee in their report had concluded that they are unable to arrive at an conclusion as to the reason for the MS. product failure and that they could only deduce that it was on account of wrong operational practices. He would therefore submit that the committee having not found any adulteration on the side of the applicant, the suspension of the supply of petrol was illegal.

4. He would further submit that it is over 45 days since the suspension of the supplies and even under the Marketing Discipline Guidelines, the entire exercise for passing the orders on the show cause notice was a period of 45 days and as on date, the supply of petrol to the applicant has been suspended for more than 45 days.

5. it is an admitted fact that the respondent has resumed the supplies of diesel to the applicant bunk pursuant to the orders of this Court dated 22.10.2020. The respondent shall continue its uninterrupted supply of diesel to the applicant bunk.

6. With reference to supply of petrol, since the applicant has already sent their reply to the show cause notice dated 24.09.2020 of the respondent, the respondent shall within 15 days from today conclude the enquiry and pass orders after giving an opportunity to the applicant to put forward their case. The respondent shall consider the

reply and submissions of the applicant with an open mind and in a total unbiased manner and in terms of Chapter 8.

7. In the light of the above, the respondent shall not terminate the Dispensing Pump and Selling License Agreement dated 20.01.2017 entered into between the applicant and the respondent till the orders are passed after the enquiry pursuant to the show cause notice dated 24.09.2020.

8. In fine the following orders are passed :-

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The application is disposed of with a direction to the respondent to continue uninterrupted supply of diesel to the applicant and with regard to supply of petrol, the respondent shall **within 15 days from today** hold an enquiry and pass orders after affording an opportunity to the applicant in respect of the show cause notice dated 24.09.2020.

b) OA.No.539 of 2020

There shall be an order of interim injunction restraining the respondent from terminating Dispensing and Selling License Agreement dated 20.01.2017 till the orders are pronounced after the enquiry pursuant to the show cause notice dated 24.09.2020.

05.11.2020

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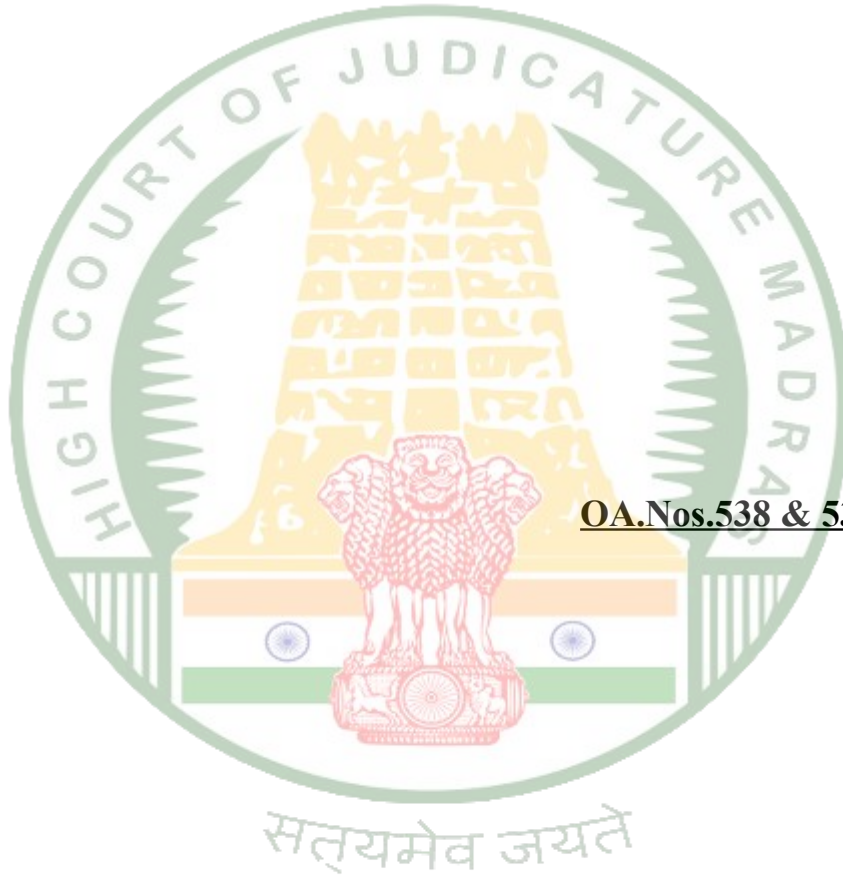


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