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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 10.11.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.9207 OF 2008 & 9681 OF 2006

WP.NO.9207 OF 2008

G.Vasanthakumaran

.. Petitioner

..Vs..

1. Indian Oil Corporation Limited
139, Nungambakkam High Road,
Chennai - 600 034.
Rep by its General Manager,
(Southern Region)
2. The General Manager,
Indian Oil Corporation Ltd.,
(Marketing Division)
Indian Oil Bhavan,
139, Nungambakkam High Road,
Chennai - 600 034.
3. Deputy General Manager,
Indian Oil Corporation Limited,
(Tamil Nadu and Pondicherry)
139, Nungambakkam High Road,
Chennai - 600 034.
4. B.Krishnakumari

.. 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 the impugned proceedings of the 3rd respondent in Ref.No.TNL/S/516, dated 17.01.2005 quash



the same and direct respondents 1 to 3 to restore LPG Distributorship at Nagercoil granted to the petitioner's father Late N.Gopalakrishnan Pillai, freedom fighter during 19.09.1994 to the petitioner.

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AND

WP.No.9681 of 2006

- 1.B.Krishnakumari
- 2.B.Aravindakshyamma
- 3.B.Sumathiamma
- 4.B.Babyammal

.. Petitioners

..Vs..

1. Indian Oil Corporation Limited
139, Nungambakkam High Road,
Chennai - 600 034.
Rep. by its General Manager,
(Southern Region)
2. The General Manager,
Indian Oil Corporation Ltd.,
(Marketing Division)
Indian Oil Bhavan,
139, Nungambakkam High Road,
Chennai - 600 034.
3. The Deputy General Manager,
Indian Oil Corporation Limited,
(Tamil Nadu and Pondicherry)
139, Nungambakkam High Road,
Chennai - 600 034.
4. G.Vasanthakumaran
5. Vijayagopalan @ Anand

.. 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 the proceeding of the third



respondent made in Ref.No.TNL/S/516, dated 17.01.2005 and quash the same and direct the second respondent herein to pass orders in terms with the Apex Court order in C.A.No.6517 of 2001 dated 19.11.2003 after affording opportunity to all the legal heirs.

For Petitioner : Ms.V.S.Manimekalai
(for Petitioner in
WP.No.9207 of 2008
and R4 in WP.No.9681 of 2006)

For Respondents : Mr.Mohammed Fayaz Ali
(for R1 to R3 in
WP.No.9207 of 2008)

Mr.Abdul Saleem
(for R1 to R3 IN
WP.No.9681 of 2006)

Ms.N.R.Jasmine Padma
(for petitioner in
WP.No.9681 of 2006
and R4 in WP.No.9207 of 2008)

Mrs.S.Hemalatha
(for R5 in W.P.No.9681 of 2006)

COMMON ORDER

WP.No.9207 of 2008: The order of cancellation cancelling the LPG Distributorship granted in favour of deceased one Mr.N.Gopalakrishna Pillai, Freedom Fighter is under challenge in the present writ petition. The writ petitioner is the son of the original allottee and has filed the writ petition claiming that the LPG Distributorship should be transferred in his name.

2.It is not in dispute that the father of the writ petitioner Late Mr.N.Gopalakrishna Pillai was granted LPG Distributorship by the first respondent, Indian Oil Corporation under the Freedom Fighters quota. The father of the writ petitioner associated the fourth respondent Smt.B.Krishnakumari, who is none other than the grand daughter of the allottee in the



business as Partner. However, the deceased allottee terminated the partnership with the fourth respondent on 03.05.1999. Consequent to the termination of the partnership, the Indian Oil Corporation invoked the terms and conditions of the allotment and suspended the distributorship on 14.05.1999. Thereafter, Writ Petitions, Writ Appeals and Special Leave Petitions were filed elaborating all these litigations became unnecessary in view of the fact that the original allottee Mr.N.Gopalakrishna Pillai admittedly died on 14.06.2004. After a lapse of four years from his death, the present writ petition is filed by the petitioner, who is the son of the original allottee challenging the cancellation order passed by the Indian Oil Corporation in proceeding dated 17.01.2005.

3.It is to be noted that the original allottee and Freedom Fighter Late Mr.N.Gopalakrishna Pillai died on 14.06.2004 and the order of cancellation of allotment was passed by the first respondent/ Indian Oil Corporation on 17.01.2005 and the writ petition was filed on 10.04.2008 after a lapse of three years from the date of passing of the cancellation order.

4.It is contended that the very same petitioner filed another writ petition in W.P.No.28492 of 2004 immediately after the death of his father and the impugned order of cancellation was passed during the pendency of the writ petition. Even, in such circumstances, this Court is of an opinion that either the prayer in the earlier writ petition filed in W.P.No.28492 of 2004 should have been amended or a fresh writ petition would have been filed immediately after passing of the impugned order in the year 2005. However, the learned counsel for the writ petitioner drew the attention of this Court with reference to the reasons given for delay in filing of the present writ petition by the petitioner.

5.The reasons stated in paragraph-11 of the affidavit reveals that when the Miscellaneous Petition came up for hearing in the said writ petition, the learned counsel for Indian Oil Corporation served a copy of the impugned proceedings dated 17.01.2005 passed by the third respondent terminating the distributorship and the petitioner received the copy of the order only after it was served on his counsel on 19.03.2008. Thereafter, the present writ petition is filed.



6. Such a reason seems to be correct in view of the fact that the impugned order dated 17.01.2005 cancelling the allotment of LPG Distributorship was issued to the original allottee and to the fourth respondent partner. When it is not addressed to the petitioner, the petitioner would not have been served with the copy of the order during the relevant point of time.

7. May that as it be, this Court is of the considered opinion that the fact remains that the allotment of LPG Distributorship was granted in favour of the deceased Freedom Fighter on 19.09.1994. The terms and conditions of the allotment order stipulates the following conditions:-

'

1.2 - You shall not induct any partner/s, in case of individuals, nor make any changes in the constitution of the partnership, as existing at the time of application.

.....

1.4 - You shall operate the distributorship personally full time and give us a Written Undertaking to this effect.'

8. Even, with reference to the order passed in the Writ Petitions, Writ Appeals and in Special Leave Petitions, the Courts have directed the Indian Oil Corporation to consider the issues. The Indian Oil Corporation considered and finally terminated the distributorship in proceeding dated 17.01.2005.

9. The learned counsel for the Indian Oil Corporation made a submission that there are no rules in force for inheritance of the LPG Distributorship. If at all the distributorship is to be granted all necessary procedures are to be followed and it is not automatic based on the original allotment issued in favour of the father of the writ petitioner, more specifically under the Freedom Fighters quota. Thus, inheriting the distributorship does not arise at all.

10. It is further contended that the petitioner has no locus standi to challenge the order as he was not an allottee nor a partner in the distributorship. As far as the petitioner is concerned, he is a third party to the LPG Distributorship granted in favour of the Freedom Fighter, who inducted his grand



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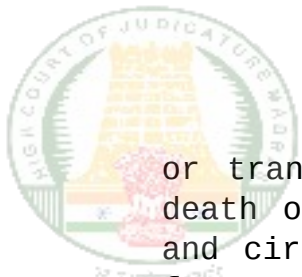
daughter/ fourth respondent as a partner. Thus, the petitioner is alien to the business and in his capacity as a son he cannot seek inheritance of the LPG Distributorship, more so after the death of original allottee.

11.The fourth respondent also filed a writ petition in W.P.No.9681 of 2006 challenging the cancellation of distributorship, admittedly, she is a partner along with her grandfather and the partnership deed itself was cancelled by the grandfather during his lifetime on 10.06.1999.

12.This Court is of the considered opinion that allotment was granted in the year 1994 and the deceased freedom fighter inducted the fourth respondent as a partner in the business. On account of the mis-understanding, the original allottee, father of the writ petitioner cancelled the partnership and the dispute arose thereafter. In respect of the Writ Petition, Writ Appeal and Special Leave Petition, Courts have directed the Indian Oil Corporation to consider the facts. The Indian Oil Corporation considered the facts and formed an opinion that the distributorship cannot be allowed to continue and accordingly cancelled the distributorship in the impugned proceedings dated 17.01.2005.

13.Considering the facts and circumstances, this Court is of an opinion that the original allottee Mr.N.Gopalakrishna Pillai admittedly died on 14.06.2004 and the distributorship ceased to exist on account of his death. The distributorship is not functioning for many years. LPG Distributorship is an essential services to be provided in the interest of public at large. When the petitioner has not been granted distributorship after the demise of his father in the year 2004, the same cannot be granted after this length of time by this Court in the present writ petition. It is brought to the notice of this Court that the petitioner himself is aged about 74 years as of now. If at all, he is interested, he has to approach the Indian Oil Corporation, if any notification is issued in this regard or by filing an appropriate application, if any rule or regulation permits to do so, and not otherwise.

14.However, the distributorship granted in favour of the father of the writ petitioner in the year 1994, more specifically under the freedom fighters quota cannot be restored



or transferred in favour of his son writ petitioner after the death of original allottee on 14.06.2004. In view of the facts and circumstances, the petitioner has not established any right for grant of relief and accordingly, the writ petition in W.P.No.9207 of 2008 stands dismissed, in view of the fact that, the original allottee himself died and the claim of the writ petitioner in W.P.No.9681 of 2006 needs no merit consideration and the said writ petition also stands dismissed. No costs.

Sd/-
Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

vs/kbs

To

1. The General Manager,
Indian Oil Corporation Limited
139, Nungambakkam High Road,
Chennai - 600 034. (Southern Region)
2. The General Manager,
Indian Oil Corporation Ltd.,
(Marketing Division)
Indian Oil Bhavan,
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3. The Deputy General Manager,
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(Tamil Nadu and Pondicherry)
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Chennai - 600 034.

+1cc to M/s.Anand Abdul and Vinoth Associates, Advocate,
S.R.No.58089

W.P.Nos.9207 of 2008 &
9681 of 2006

VG-II(CO)
RLP(26/11/2021)