

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.5953 of 2021

B.Punitha

... Petitioner

Vs.

1. Indian Oil Corporation Ltd.,
Rep. by its Chief Divisional Retail Sales Manager,
Chennai Divisional Office,
No.500, Anna Salai,
Chennai 600 018.

2. Sri Venkateswara Oil Agencies,
Rep. by its Partner,
Mr.B.Sethuraman

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the first respondent to award license to the petitioner in respect to the second respondent viz. "Sri Venkateswara Oil Agencies".

For Petitioner : Mr.Avinash
for M/s.V.Raghavachari

For Respondents: Mr.Mohammed Fayaz Ali for R1
Mr.M.Gnanasekar for R2

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus directing the first respondent to award license to the petitioner in respect to the second respondent viz. "Sri Venkateswara Oil Agencies".

2.The case of the petitioner is that the petitioner's

husband, his brother and their father constituted a partnership firm under the name and style of "Sri Venkateswara Oil Agencies" and her husband signed the Memorandum of Agreement on 06.08.1987 with the first respondent for supply of Kerosene for domestic purpose and light diesel oil. The petitioner's husband is entitled for 45% of share. Whiles, the petitioner's husband died on 22.09.2011 leaving behind the petitioner and her minor daughter as legal heirs.

3.The further case of the petitioner is that after the death of the petitioner's husband, all the partners were called for a meeting by the first respondent and during the meeting the second respondent accepted to submit a joint application for reconstitution with 55% share to the second respondent, 45% share to the petitioner and the petitioner's father - in - law expressed willingness to retire and to transfer his 10% share to his second son B.Sethuraman, however, the second respondent did not show any interest with regard to re-constitution proposal and the document was not submitted in time. Hence, the first respondent declined to supply kerosene from 01.11.2013 stating that formalities should be complied before 30.11.2013.

4.The further case of the petitioner is that the second respondent filed W.P.No.32847 of 2013 before this Court seeking direction to the first respondent to continue the supply of kerosene as per the Memorandum of Agreement dated 06.08.1987 and this Court vide order dated 12.10.2017 directed the petitioner and the second respondent to appear before the first respondent with the re-constitution proposal and required documents and directed the first respondent to supply kerosene as per the Memorandum of Agreement dated 06.08.1987, till a decision is taken. Thereafter the petitioner sent a representation dated 18.01.2018 to the second respondent to appear before the first respondent with requisite documents and also addressed the issue to the first respondent as to whether any re-constitution proposal was received, however, the first respondent vide reply dated 08.01.2021 replied that they have not received any re-constitution proposal/ documents. The second respondent did not even care to share the profit earned out of partnership deed. Hence, the petitioner has filed this writ petition.

5.The learned counsel appearing for the petitioner would submit that without going into the merits of the case, it would suffice, if this Court issues direction to the first respondent to decide the issue in terms of the order of this Court dated 12.10.2017 made in W.P.No.32847 of 2013, within a reasonable time frame.

6.The learned counsel appearing for the first respondent would submit that appropriate order will be passed in terms of

the order of this Court dated 12.10.2017 made in W.P.No.32847 of 2013, within the time frame that is to be stipulated by this Court.

7.The learned counsel appearing for the second respondent raise no serious objection for this Court considering the request now made by the learned counsel appearing for the petitioner.

8.In view of the consent view expressed by the learned counsel appearing for the respondents, this Court is inclined to issue direction to the first respondent to implement the order of this Court dated 12.10.2017 made in W.P.No.32847 of 2013, within a period of twelve weeks from the date of receipt of a copy of this order.

9.For ready reference, the relevant portion of the order of this Court dated 12.10.2017 made in W.P.No.32847 of 2013 is extracted hereunder:

"12.At this stage, learned counsel appearing for the 2nd respondent submitted that he has already given change of vakalat for the 2nd respondent and this Court had directed the Registry to print the name of the 2nd respondent in the cause list and the same is printed. As there is no appearance for the 2nd respondent even today and as the matter is pending since 2013, this Court directs the petitioner as also the 2nd respondent to appear before the 1st respondent/ IOC on 15.11.2017 with the re-constitution proposal and required documents. If the parties fail to appear before the 1st respondent/ IOC on the specified date, it is open to the 1st respondent/ IOC to record the same and decide the issue in accordance with law within one month from the date of appearance of the parties. Till such a decision is taken, the 1st respondent/ IOC shall supply kerosene to the writ petitioner/ Oil Agency based on the Memorandum of Agreement, dated 06.08.1987."

10.Further, if any re-constitution proposal/ document is given by the petitioner or by second respondent, the first respondent shall consider the same and shall pass appropriate orders, as per the order of this Court dated 12.10.2017 made in W.P.No.32847 of 2013 and other relevant guidelines.

11.This writ petition is accordingly disposed of. No costs.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Chief Divisional Retail Sales Manager,
Indian Oil Corporation Ltd.,
Chennai Divisional Office,
No.500, Anna Salai,
Chennai 600 018.

+1cc to M/s.M.Gnanasekar, Advocate, S.R.No.62332

+1cc to M/s.V.Raghavachari, Advocate, S.R.No.61792

W.P.No.5953 of 2021

SMI (CO)
SU(11/01/2022)