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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2021

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.588 of 2016
and
W.M.P.No.427 of 2016

R.Regunathan, B.E.,
Proprietor,
M/s.Shreesha NDNE Indane Agency,
No.64/2A, Nadukattu Easakkiamman Koil Street,
Nagarcoil - 629 001.
Tamil Nadu.

...Petitioner

Vs

1. The Union of India,
Represented by its Secretary to Government,
Ministry of Petroleum and Natural Gas,
Shastri Bhavan, New Delhi - 110 001.
2. The Chairman,
Indian Oil Corporation Ltd,
Corporate Office : 3079/3,
JB Tito Marg, Sadiq Nagar,
New Delhi - 110 049.
3. The Deputy General Manager (LPG-S)
Indian Oil Corporation Ltd,
Indian Oil Corporation Bhavan,
139, Nungambakkam High Road,
Chennai - 600 034.
4. The Chief Area Manager,
Indane Area Office,
Indian Oil Corporation Ltd,
No.2, Race Course Road,
Chokkikulam, Madurai 625 002.

...Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, praying to Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the third respondent in his Ref: TNL/S/244 dated 03.11.2014 and quash the same and to direct the respondents to pass orders on the representation of the petitioner dated 07.12.2015 and to direct the respondents to convert the existing non domestic



distribution-ship under agreement dated 31.07.2013 authorizing the petitioner to serve all categories of LPG customers, Industrial customers and Commercial customers by selling LPG Cylinder of all varieties.

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For Petitioner : Mr.K.Sivakumar
For Respondent 1 : Mr.K.S.Jeya Ganeshan
Central Govt. Standing Counsel
For Respondents
2 to 4 : Mr.Abdul Saleem

O R D E R

The relief sought for in the present writ petition is to call for the records relating to the order passed by the third respondent in his Ref: TNL/S/244 dated 03.11.2014 and quash the same and to direct the respondents to pass orders on the representation of the petitioner dated 07.12.2015 and to direct the respondents to convert the existing non domestic distribution-ship under agreement dated 31.07.2013 authorizing the petitioner to serve all categories of LPG customers, Industrial customers and Commercial customers by selling LPG Cylinder of all varieties.

2.The petitioner admittedly was appointed as a Non-Domestic LPG Retailer for Kanyakumari District to sell NDNE packed LPG cylinders, by an agreement dated 31.07.2013 entered into between the petitioner and the 4th respondent. The petitioner is carrying on the business in the name and style of M/s.Srisha NDNE Agency.

3.The grievances of the petitioner is that the domestic dealers are given the benefit of dealing with the industrial gases and therefore, such a benefit is to be extended to the petitioner also.

4.The learned counsel appearing on behalf of the respondent Oil Corporation disputed the said contention by stating that the appointment itself is for Non Domestic Non Exempted (NDNE) LPG only.

5.When the terms and conditions of contract is restricted to the NDNE LPG retailer, the petitioner cannot seek any further dealership, by way of submitting a mere representation. The similar prayer sought for in respect of another writ petitioner viz., T.Chezhian, in WP No.773 of 2016 was rejected by this Court in order dated 07.04.2016. The relevant portion of the order is extracted hereunder.



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"12. Moreover, in the impugned order, dated 22.12.2015, it is specifically stated that the petitioner applied for NDNE distributorship in pursuant to the HPCL's advertisement for appointment of NDNE distributorship and was selected, based on which, the agreement was executed on 29.06.2011 and while applying for such distributorship, the petitioner was aware of his nature of distributorship, and even so while executing the agreement and hence, it is observed in the impugned order that the petitioner as agreed upon, will be exclusively marketing only non-domestic packed LPG cylinders to commercial and industrial customers and not for any other purpose and it was further observed in the impugned order that as per the terms and conditions of the agreement, domestic consumers cannot be enrolled by any NDNE distributors, which is well aware to the petitioner.

13. As prayed for by the petitioner, this Court cannot mechanically issue direction to the respondents to consider the representation of the petitioner, by simply quashing the impugned order. Furthermore, the amendment so made in the said Circular, dated 03.10.2011, is not pertaining to HPCL and the amendment as enunciated in the Circular is made only by IOCL, which is not a party to this Writ Petition. Hence, the petitioner cannot apprehend his case even before any such amendment is brought forth by HPCL. Hence, there is no merit in the case of the petitioner. I do not find any illegality, impropriety, irrationality or procedural irregularity in the impugned order passed by the fourth respondent. Hence, the Writ Petition is liable to be dismissed.

14. At this juncture, learned counsel for the petitioner prayed that atleast the first respondent-Union of India, Ministry of Petroleum and Natural Gas, may be directed to consider the case of the petitioner in the event of the petitioner submitting a fresh representation seeking necessary relief. Hence, the petitioner, if so advised, is at liberty to make necessary representation, ventilating his grievance and if such a representation is preferred, the first respondent-Union of India is directed to consider such representation, pass appropriate orders and dispose of such representation, on merits and in accordance with law, within a reasonable time."



6.This Court is of the considered opinion that the petitioner applied for appointment of NDNE LPG retailer and appointment was given based on the terms and conditions. Beyond the scope of the terms and conditions of dealership, the petitioner cannot seek any further benefit, by merely submitting a representation. Thus, the claim is not supported with any right with reference to the contract and consequently, the petitioner could not able to establish any right.

7.Thus, the writ petition is devoid of merits and stands dismissed. No Costs. Consequently, the connected Writ Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ars/mka

To

1. The Secretary to Government,
Union of India,
Ministry of Petroleum and Natural Gas,
Shastri Bhavan, New Delhi - 110 001.
2. The Chairman,
Indian Oil Corporation Ltd,
Corporate Office : 3079/3,
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NSK 28/10/2021