



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.12.2021

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.26381 of 2021
and WMP.No.27891 of 2021

M/s.Raja Bhuvaneshwari Agencies,
Rep. by Proprietor Sri A.Rajangam,
S.No.502, Srinivasa Nagar, Andipatti,
Theni District.

... Petitioner

Vs.

- 1 The General Manager / Director,
Marketing Division Indian Oil Corporation Ltd,
Nungambakkam High Road,
Chennai-600 035.
- 2 The Area Manager
Indian Oil corporation Ltd,
No.2 Race course Road Chokkikulam,
Madurai-625 002.
- 3 M/s.Sathiyabama Indane Gas Agencies,
Andipatti, Theni District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, directing the 1st respondent herein to take necessary action against the 2nd respondent herein in not to transfer further more customers of the petitioners agency by the 2nd respondent herein from the petitioners agency service to the 3rd respondent newly commissioned agency herein or any other agency and direct the 1st respondent herein to implement the final order passed in the writ petition in W.P.24054 of 2018 dated 6.12.2018 by appointing arbitrator to dissolve the dispute of transfer of customers and till such time suitable direction to the 2nd respondent to restore petitioners all 4042 valuable customers already diverted from the petitioners agency service on 12.12.2018 pursuant to the order passed by the second respondent in Ref. No.MAO/Andipatti/18 dated 21.05.2018 to the 3rd respondent newly commissioned agency by considering the petitioner's representation dated 19.07.2021.



For Petitioners : Mr.K.M.Venugopal

For Respondents : Mr. Mohammed Fayzal Ali R1 & R2
Standing Counsel

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ORDER

This Writ Petition has been filed seeking a direction to the 1st respondent herein to take necessary action against the 2nd respondent herein in not to transfer further more customers of the petitioners agency by the 2nd respondent herein from the petitioners agency service to the 3rd respondent newly commissioned agency herein or any other agency and direct the 1st respondent herein to implement the final order passed in the writ petition in W.P.24054 of 2018 dated 6.12.2018 by appointing arbitrator to dissolve the dispute of transfer of customers and till such time suitable direction to the 2nd respondent to restore petitioners all 4042 valuable customers already diverted from the petitioners agency service on 12.12.2018 pursuant to the order passed by the second respondent in Ref. No.MAO/Andipatti/18 dated 21.05.2018 to the 3rd respondent newly commissioned agency by considering the petitioner's representation dated 19.07.2021.

2. The case of the petitioner is that he is a LPG Gas distributor and he is running an agency viz., Raja Bhuvaneshwari Agencies and he is maintaining 2500 consumers. While so, the second respondent, vide his proceedings dated 21.05.2018, directed to transfer the above said consumers to the newly commissioned agency viz., Sathyabama Indane Gas Agencies, Andipatti. Therefore, the petitioner has filed a writ petition before this Court in W.P.No.24054 of 2018 and the same was disposed of on 06.12.2018 with a directions to the respondents to appoint an Arbitrator as per the Act and agreement, based on the fresh representation of the petitioner. Till date, the representation was not considered and the respondents have not appointed any Arbitrator. For implementation of the said order, the present writ petition has been filed before this Court.

3. The learned counsel for the petitioner submitted that this Court may issue a direction to the second respondent to consider the representation dated 19.07.2021 of the petitioner and implement the order of this Court in W.P.No.24054 of 2018 dated 03.12.2018 within the stipulated time as fixed by this Court.

4. The learned Standing counsel for the respondents submitted that on an earlier occasion, the second respondent, vide his proceedings dated 04.01.2018, wherein it is held that the Indian Oil Corporation Ltd., decided to transfer the existing consumer of the Agency to the newly Gas Agencies. The said proceedings was challenged before this Court. This Court has stayed the



proceedings. The similar issue involved in the present case is pending before the Hon'ble Supreme Court, for disposal. However, the learned counsel submitted that the consumers will not be transferred to the other agency, till the disposal of the Special Leave Petition, which is pending before the Hon'ble Supreme Court. The learned counsel further submitted that the Petroleum companies are empowered to transfer the customers from one distributionship to another distributionship, in case within the jurisdiction, there are consumers more than the ceiling. In the present case is concerned, the respondents will consider the petitioner's representation and pass appropriate orders on merits and in accordance with law within a stipulated time as fixed by this Court.

5. Heard the learned counsel for the petitioner and the learned Standing Counsel appearing for the respondents 1 & 2 and perused the materials available on record.

6. In view of the submission made by the learned Standing Counsel that similar issue is pending before the Hon'ble Apex court, till the disposal of the same, there is no apprehension to the petitioner in respect of transfer of the existing consumers from the petitioner's agency to the third respondent Agency. The learned Standing Counsel has also agreed not to transfer the existing consumers from the petitioner's agency to any other agency till the disposal of the SLP pending before the Hon'ble Apex Court.

7. In view of the above discussion, the Writ Petition no longer survives and accordingly, the same is closed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

- 1 The General Manager / Director,
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Chennai-600 035.
- 2 The Area Manager
Indian Oil corporation Ltd,
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W.P.No.26381 of 2021

RSI (CO)
SB(04/01/2022)