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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2021

C O R A M

THE HON'BLE MR.JUSTICE KRISHNAN RAMASAMY

W.P.NO.6621 OF 2017

AND

W.M.P.NOS.7104 & 7105 OF 2017

PRM Fuels,
Rep. by its Managing Partner,
Mrs.Sudha Ramanan.

... Petitioner

.Vs.

1. The Joint Controller of Explosives,
South Circle, Chennai,
The Government of India,
The Ministry of Commerce and Industries,
Petroleum and Explosives Safety Organisation (PESO),
(Formerly Department of Explosives),
A & D Wing, Block 1-8, second floor,
Shastri Bhavan, 28, Haddows Road,
Nungambakkam, Chennai - 600 006.

2. The General Manager,
Retail Outlet (Sales),
The Indian Oil Corporation Limited,
500, Anna Salai, Teynampet,
Chennai - 600 018.

... Respondents

PRAYER:-

Writ Petition filed under Section 226 of the Constitution of India, prayed for the issuance of Writ of Certiorari, to call for the records of the first respondent in No.Petn/Genl dated 31.03.2016 regarding filling of high speed diesel in bowsers from the petroleum retail outlets and quash the same.

For Petitioner : Mr.D.Shivakumaran

For Respondents : Mr.G.Baskaran
Central Government
Standing Counsel



ORDER

This Writ Petition has been filed, praying for the issuance of Writ of Certiorari, to call for the records of the first respondent in No.Petn/Genl dated 31.03.2016 regarding filling of high speed diesel in bowzers from the petroleum retail outlets and quash the same.

2. When the matter is taken up for hearing, the learned counsel for the petitioner submitted in a identical issue, this Court has passed the following order in W.P.No.15734 of 2016 etc batch dated 22.10.2021.

"The writs on hand have been instituted to quash the circular dated 31.03.2016 issued by the 1st respondent Chief Joint Controller of Explosives. The said circular offended the petitioners in view of the fact that the circular was issued based on an incorrect complaint given by the Tamilnadu Petroleum Dealers Association, Chennai.

2. The respective learned Counsel appearing on behalf of the petitioners made a submission that the petitioners are operating retail Petroleum Bunks by strictly following the provisions of the Petroleum Act, rules as well as terms and conditions of the license. Therefore, there is no reason whatsoever, for issuance of such circular based on the incorrect complaint given by the Tamil Nadu Petroleum Dealers Association, Chennai, on certain extraneous considerations.

3. The learned counsel appearing on behalf of the Oil Corporation raised an objection by stating that under the provisions of the Petroleum Act and more specifically, Form-XIV Clause-16 of Petroleum Rules 2002, reads as under:-

" 16.Petroleum shall not be filled from the tank or the pump into a container or receptacle other than those securely clamped or fitted to a motor vehicle.

The restriction imposed by this condition shall not apply :

- (i) when it is absolutely necessary for the purpose of condition of this license to clear a tank, or



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- (ii) for testing the accuracy of the pump's discharge by means of a standard capacity measure, or
- (iii) to the filling of an approved container of capacity not exceeding 25 litres when such filling is absolutely necessary for replenishing the fuel tank of a motor vehicle which has run dry and the motor vehicle cannot be brought into the pump.
- (iv) to the filling of Petroleum Class B in an approved container of capacity not exceeding 200 litres and no vehicle with its engine running shall be allowed within 4.5 metres of the container and the dispensing pump."

4. Relying on the said Petroleum Rules, the learned counsel appearing on behalf of the Oil Corporations reiterated that in the event of violations, the authorities competent are empowered to initiate actions. The preamble of Form-XIV of Petroleum Rules, 2002 is also relevant for the purpose of understanding the manner in which the retail outlets are to be operated.

5. It is needless to state that all the Petroleum Retailers are bound to adhere to the provisions of the Petroleum Act, Rules and terms and conditions of the license at all circumstances and any violation, warrants action by the competent authorities, as petroleum products are explosives and which may cause danger to the public at large.

6. The scrupulous adherence of the provisions of the law are of paramount importance as far as the supply and selling of Petroleum products are concerned. Thus, the authorities competent are expected to be vigilant in respect of the procedures to be followed by the retailers for supply and selling of Petroleum products.

7. The impugned order indicates that the Tamil Nadu Petroleum Dealers Association, Chennai made certain complaints against the dealers. Thus, the 1st respondent-Joint Chief Controller of Explosives, South Circle, Chennai issued the impugned order stating that any such complaint must be viewed



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seriously by the 1st respondent and issued an advice to stop filling of petroleum products to the bowzers from the retail outlets and initiate action against defaulters and inform the same within 21 days from the date of issue of impugned order, failure will result in initiation of penal action towards suspension/cancellation of the licence granted in Form-XIV of the Petroleum Rules, 2002 for the defaulters.

8. Perusal of the impugned order would reveal that no action has been taken against any of the petitioners. It is advised by the 1st respondent to follow the Act and Rules scrupulously while running the retail petroleum pumps.

9. Mere advice in this regard issued based on the complaint cannot be a cause for issuing any direction in writ proceedings. If any subsequent action is taken based on a specific complaint, then alone the cause would arise for the petitioners for institution of further proceedings in accordance with law.

10. At the outset, the impugned order is an advice/circular, warning the retailers stating that they are bound to follow the rules and regulations, more specifically, Form-XIV of Petroleum Rules, 2002 and in the event of violation, strict action will be taken. This being the nature of the impugned proceedings, this Court is of the opinion that the petitioners are bound by the provisions of the Petroleum Act, rules and the terms and conditions of the licenses granted and more specifically, with reference to the facts of the present case, Form-XIV of the Petroleum Rules, 2002.

11. In view of the factum placed for consideration before this Court, the following orders are passed:

- i) All the petitioners are directed to follow the provisions of the Petroleum Act and Rules 2002 and the consequential terms and conditions of the licenses scrupulously while dealing with all the petroleum products.



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ii) The respondents are directed to conduct periodical inspections in retail outlets to ensure that the petroleum products are handled in the manner prescribed under law. In the event of any violation, all appropriate actions are to be initiated by following the procedures as contemplated under law.

iii) The 1st respondent is directed to issue appropriate circular reiterating the provisions of the Act and Rules to all the Oil Corporations and ensure that such instructions are to be followed scrupulously by the Oil Corporations, who in turn are to enforce the same to its retailers and in the event of any violation, immediate actions are to be taken as the explosives may cause danger to the public at large and any lapses, negligence, dereliction of duties by the authorities must be viewed seriously and actions are to be initiated against all such officials also.

iv) The 1st respondent as well as the respective Oil Corporations are directed to monitor and review the periodical inspections to be conducted by the authorised officials with reference to the supply and selling of Petroleum products by the retailers.

12. The petitioner in WP No.5958 of 2013 specifically states that he purchased diesel for his own usage, it is made clear that even in respect of such purchase, the Petroleum Act, Rules and Form-XIV are to be followed scrupulously by the retailers.

13. With these directions, these writ petitions stand disposed of. No costs. Consequently, the connected Miscellaneous Petitions are closed.



3. In view of the above, this Writ Petition is disposed of on the same line as the order passed by this Court as referred above. No Costs. Connected miscellaneous petitions are closed.

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Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

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The Government of India,
The Ministry of Commerce and Industries,
Petroleum and Explosives Safety Organisation (PESO),
(Formerly Department of Explosives),
A & D Wing, Block 1-8, second floor,
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2. The General Manager,
Retail Outlet (Sales),
The Indian Oil Corporation Limited,
500, Anna Salai, Teynampet,
Chennai - 600 018.

+2ccs to Mr.D.Shivakumaran, Advocate, S.R.No.61809
+1cc to Mr.G.Baskaran, Advocate, S.R.No.61739

W.P.NO.6621 OF 2017 AND
W.M.P.NOS.7104 & 7105 OF 2017

KSM(CO)
PBS/06/01/2022