

IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment delivered on: November 23, 2021

+ W.P.(C) 10686/2020 & CM. Nos. 33540/2020 and 13155/2021

AIR CMDE NAVISH BAHRI (RETD.)

..... Petitioner

Through: Mr. S.S. Pandey, Mr. Abhishek
Ritabh Shukla and Mr. S.
Krishnamurthy, Advs.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Harish Vaidyanathan
Shankar, CGSC with Mr. Amit
Gupta, GP. and Ms. S. Bushra
Kazim and Mr. Karana Chibber,
Advs. for UOI.
Mr. Anurag Singh, Adv. for R3.

AND

+ W.P.(C) 7250/2021 & CM. No. 22858/2021

COL RAVINDER CHAUHAN (RETD.)

..... Petitioner

Through: Mr. S.S. Pandey, Mr. Abhishek
Ritabh Shukla and Mr. S.
Krishnamurthy, Advs.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Tanveer Ahmed Ansari, Sr.
Panel Counsel for R1 and R2.
Mr. Anurag Singh, Adv. for R3
Ms. Manisha A. Narain, Adv.
with Mr. Naresh Chand Sharma
for R4 / ZSB
Mr. Atul Sahi and Mr. Dinesh
Monga, Advs. for R5

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

J U D G M E N T

V. KAMESWAR RAO, J

CM No.13155/2021 in W.P.(C) 10686/2020 (for early hearing)

Since I have heard the counsels for the parties finally on the merits of the petition, this application is closed and disposed of.

W.P.(C) 10686/2020

W.P.(C) 7250/2021

1. As a common issue arises for consideration in these petitions filed by retired Officers belonging to the Indian Air Force and Indian Army respectively seeking re-employment as a service provider, they are being decided by this common order.
2. The W.P. (C) 10686/2020 has been filed with the following prayers: -

“(a) Issue a Writ of Certiorari or any other appropriate Writ or direction calling for the records based on which the Respondents have withdrawn his nomination in terms of order dated 15.10.2020 (not supplied to the Petitioner) and has rejected his representation vide impugned order dated 09.12.2020 and thereafter quash all such order dated 15.10.2020 and 09.12.2020.

(b) issue a Writ of Mandamus or any other appropriate Writ or directions or order directing the Respondents to process the application of the Petitioner based on his nomination as forwarded by Respondent No. 2 on 14.09.2020 and grant him such job with all consequential benefits for the period as applicable to him in the event he is found fit in the process of selection which is due to be held by Respondent No.2.

(C) Issue any other/further direction as this Hon'ble Court may deem fit in the facts and circumstances of the

case.”

3. Whereas the W.P. (C) 7250/2021 has been filed by the petitioner with the following prayers: -

“(a) Issue a Writ of Certiorari or any other appropriate Writ or direction calling for the records based on which the Respondents have issued the orders dated 11.03.2021, 15.07.2021 terming the Petitioner ineligible for the job as well as the SCN dated 12.07.2021 as well as 21.07.2021 vide which the Respondent No.3 has proposed the termination of the Petitioner for the job and therefore quash all such order including order dated 11.03.2021 and 15.07.2021.

(b) Issue a Writ of Mandamus or any other appropriate Writ or directions or order directing the Respondent No.3 to issue the letter of appointment to the Petitioner based on the process of selection and provide him the job for which he has already been selected with all consequential benefits.

(c) Issue any other/further directions as this Hon’ble Court may deem fit in the facts and circumstances of the case.”

W.P. (C) 10686/2020

4. Mr. S.S. Pandey learned counsel appearing for the petitioners in both the matters has argued that in W.P. (C) 10686/2020 the petitioner is an Ex-Serviceman (‘ESM’, for short) who had superannuated from Indian Airforce as Air Commodore (‘CMDE’, for short) on May 31, 2017. Prior to his superannuation, he had applied for the job of the service provider in the category of General Employment which is permissible, any time, one year prior to retirement, whereas the other schemes of the Directorate General of Resettlement (‘DGR’, for short) provides that one can apply only after retirement as per the

Standard Operating Procedure ('SOP', for short) dated May 10, 2017 (Annexure P-2) issued by the respondent No.2 / DGR for this purpose.

5. It is stated by Mr. Pandey that the brochure for sponsorship of ESM and Junior Commissioned Officers ('JCOs', for short) for management of the Company Owned and Company Operated ('COCO', for short) Retail Outlets ('RO', for short) was issued by the respondent No.3 / HPCL on May 10, 2017, which was later updated on March 31, 2020 (Annexure P-3), and the same is in vogue till date.

6. He stated that the petitioner was found eligible by respondent No.2 / DGR to apply for the job of service provider and accordingly, was nominated and his name was forwarded to HPCL to participate in the process of selection. Consequently, he was selected for the said job as a service provider on a contractual basis to manage the HPCL RO located at Moti Nagar, Delhi for a period of three years from February 01, 2018, till January 31, 2021. It is further stated by Mr. Pandey that the petitioner managed the said RO properly and in view of the registration process, he was eligible for seeking re-nomination for the job of service provider of COCO of HPCL centre at Moti Nagar, New Delhi which was already under contract with him.

7. According to Mr. Pandey, respondent No.2 / DGR on September 07, 2020, forwarded the names of eligible candidates to HPCL after duly scrutinizing the eligibility criteria which was reflected in the website of respondent No.2 / DGR. Thereafter, respondent No.3 / HPCL vide letter dated October 01, 2020,

asked the petitioner to complete the application process. In this regard, the petitioner on October 14, 2020, submitted all the necessary documents to respondent No.3 / HPCL in pursuance of his participation in the selection process.

8. According to Mr. Pandey, respondent No.2 / DGR vide order dated October 15, 2020, addressed to respondent No.3 / HPCL cancelled the candidature of the petitioner holding him disqualified without informing him about the same. It is contended by Mr. Pandey that the petitioner through an email dated December 10, 2020, requested respondent No.2 / DGR to give him a copy of the letter dated October 15, 2020, but he did not get any response from respondent No.2 / DGR regarding the same till date. The petitioner vide an email dated December 05, 2020, approached respondent No.2 / DGR for reconsidering his nomination / sponsorship based on the eligibility criteria as laid down by respondent No.2 / DGR and respondent No.3 / HPCL which he was fulfilling.

9. It is also stated by Mr. Pandey that the petitioner received the impugned email dated December 09, 2020, from respondent No.2 / DGR stating that he does not fulfill the eligibility criteria and based on representations from others, his name has been withdrawn vide letter dated October 15, 2020.

10. According to Mr. Pandey it is an admitted factual position that the facilities provided to the ESM are governed by the instructions laid down on the subject and the respondent No.1 / Union of India ('UOI', for short) and respondent No.2 / DGR, who have formulated a policy, which states any ESM who has

availed any benefit under the various schemes shall not be entitled to other benefits. However, these instructions in respect of general employment in which the job of service provider for the COCO RO is given, an exception is created wherein the employment in i.e., Kendriya Sainik Board ('KSB', for short) / Rajya Sainik Board ('RSB', for short) / Zila Sainik Board ('ZSB', for short) / Ex-Servicemen Contributory Health Scheme ('ECHS', for short) / DGR has been listed as the benefit excluding the registration of ESM for nomination / sponsorship for any other scheme and not COCO RO. In other words, the COCO RO has not been treated as a disqualification or ineligibility on the ground that such employment benefit has also been availed by the ESM, as in the present case by the petitioner.

11. It is further stated by Mr. Pandey that in view of the said rule while issuing instructions laying down the SOP, respondent No.1 / UOI and respondent No.2 / DGR in paragraph 6 of the SOP have mentioned that only those disqualifications which have already been mentioned in '*The Brochure for Selection of Service providers for COCOs 2017*' by the Oil Marketing Companies will be applicable for the job of the service provider in COCO RO. In this regard, it is also stated by Mr. Pandey that a combined reading of both the instructions establishes that in respect of general employment, the job of the service provider shall not be counted as a benefit availed from DGR. Therefore, the petitioner cannot be held to be ineligible in terms of paragraph 4 which provides a condition that, for nomination, the ESM should not have availed any other benefit, if he is seeking to

apply afresh for the same job after completion of his initial employment tenure. In other words, according to Mr. Pandey, the rule only applies if the ESM who has already taken the benefit of schemes like security agency, gas agency, transportation of coal, etc., shall be ineligible.

12. That apart, Mr. Pandey submitted that paragraph 3 of *'The Brochure for Selection of Service providers for COCOs'* by the Oil Marketing Companies provides that the existing service provider will be eligible to apply for the contract of service provider for the COCO RO already under contract with him, which is founded on a reasonable principle that such person already has the requisite experience and resources to carry out such job given his experience of managing the COCO RO. According to him, re-nomination by an existing service provider is only a formality because he has to undergo the process of selection like all other candidates who are eligible and nominated for the job by respondent No.2 / DGR.

13. Furthermore, Mr. Pandey stated that one officer senior to the petitioner namely Group Captain Jayveera Pandian (Retd.) nominated earlier for a second time by respondent No.2 / DGR is successfully running the COCO RO of Bharat Petroleum Corporation Limited ('BPCL', for short) at Bharuch, Gujarat in terms of the same policy. He seeks, the grant of the prayers.

14. Counter Affidavit has been filed by respondent No.3 / HPCL in W.P. (C) 10686/2020 placing on record their stand. It is contended by Mr. Anurag Singh learned counsel appearing on behalf of HPCL, that in the matter pertaining to W.P. (C)

10686/2020 the respondent No.3 / HPCL vide letter dated August 14, 2020, asked respondent No.2 / DGR and others to nominate suitable candidates, meeting the eligibility criteria of respondent No.3 / HPCL for operating the COCO RO at HPCL Center, Moti Nagar, Near Moti Nagar Police Station, Najafgarh Road Delhi, 110015. In response to the said letter, respondent No.2 vide letter dated September 14, 2020, forwarded four names which included the name of the petitioner in the W.P. (C) 10686/2020.

15. It is also submitted by Mr. Singh that respondent No.3 / HPCL through a letter dated October 01, 2020, addressed to the petitioner and other nominated persons asked them to file their application within 30 days. However, respondent No.3 / HPCL received a letter dated October 15, 2020, from respondent No.2 / DGR wherein it was stated that the name of the petitioner is deleted from the nomination panel of subject COCO RO because due to oversight, the name of the petitioner has been erroneously forwarded for subject RO. Further, in the said letter dated October 15, 2020, respondent No.2 / DGR recommended the final nomination panelist of subject COCO RO as under: -

- “i. IC-45960L Col Sanjay Yadav*
- ii. 18612-A Gp Capt Rakesh Chandra*
- iii. IC-41574F Brig Sanjeev Manchanda”*

As a result, respondent No.3 / HPCL vide letter dated December 04, 2020, informed the petitioner about the deletion of his name from the nomination panel by respondent No.2 / DGR.

16. Mr. Singh further submitted that it also becomes essential to go through the Service Provider Agreement executed between

the petitioner and respondent No.3 / HPCL, wherein, as per Clause 10 of the said agreement, the same is stated to be valid for a period of 3 years w.e.f. February 01, 2018, to January 31, 2021. As per Clause 11, the said agreement is determinable and could be terminated by either party by giving 30 days' notice, in addition to the other grounds for terminating the agreement. However, the agreement dated January 23, 2018, executed by and between the petitioner and respondent No.3 / HPCL ended on January 31, 2021.

17. It is also submitted by Mr. Singh that respondent No.3 / HPCL acted on the recommendations given by respondent No.2 / DGR in a *bonafide* manner with no intention of harming or causing loss to the petitioner. Further, in line with the selection guidelines for the appointment of the service provider, an interview of the nominated persons by DGR was conducted by respondent No.3 / HPCL on January 14, 2021. Accordingly, Mr. Singh submitted that respondent No.3 has duly followed the instructions given by respondent No.2 vide letter dated October 15, 2020, and respondent No.3 has no role to play in the nomination panel of subject COCO RO. Hence, the present petition is not maintainable against respondent No.3.

18. Counter Affidavit has also been filed by respondent No. 2 / DGR in W.P. (C) 10686/2020 and so contended by Mr. Harish Vaidyanathan Shankar, learned Counsel appearing on behalf of the said respondent, that respondent No.2 i.e., DGR is a department of ESM welfare under the Ministry of Defence, which facilitates the resettlement of ESM by organizing Pre and

Post Retirement Training, facilitating re-employment and self-employment.

19. It is submitted by Mr. Shankar that the resettlement of ESM is sought to be achieved through the following: -

- i. Upgrading their skills by imparting necessary training to prepare them for taking up new assignments / jobs and assisting ESM in finding re-employment.
- ii. Endeavouring to provide employment opportunities in Government, or Quasi-Government, or in Public Sector Organizations.
- iii. Striving to facilitate re-employment of ESM in the Corporate Sector.
- iv. Providing jobs through various schemes of Self-Employment.

20. It is further submitted by Mr. Shankar that in order to carry out the above-mentioned tasks, they are primarily dealt by the following three sub-offices: -

- (a) Employment Directorate,
- (b) Self Employment Directorate, and
- (C) Training Directorate.

21. According to Mr. Shankar the scheme that forms a part of the subject matter of W.P. (C) 10686/2020 is the COCO RO scheme which is administered under the aegis of the Self Employment Directorate. The types of employment referred to and falling under the head 'General Employment' are as follows:

- i. Employment opportunities to ESM in Government / Quasi-Government / Public Sector Organizations.

ii. Re-employment of ESM in the Corporate Sector.

22. In this regard, Mr. Shankar stated that the process of selection for the COCO RO scheme is that an ESM has to register and express willingness for the COCO RO scheme. As the vacancies and opportunities for ESM, are very few; non-recurring in nature, and generally widely spaced out in time, the registration for the scheme is done through employment assistance to avoid duplicity and in order to assist in central maintenance of records. Furthermore, as and when requisition request from Oil Marketing Companies is received by the Self Employment Directorate, they ask for names of eligible and willing candidates from the office of employment assistance, as they have the names and data available with them. On receipt of this communication, the requisition details are uploaded on the DGR website for information, and after a time gap of approximately two weeks, the names of volunteer ESM are forwarded to the Self Employment Directorate by the office looking after employment assistance. On receipt of the names, the same is forwarded after following due procedures to the respective Oil Marketing Company for their consideration and necessary action by the Self Employment Directorate only. Thus, it is the Self-Employment Directorate that receives the request, acts on it, has it vetted from superior authorities, and forwards it to the user organization and not by the Office of the Employment Directorate which is merely an intermediary.

23. That apart, it is also contended by Mr. Shankar that the petitioner in W.P. (C) 10686/2020 seeks to take advantage of his

fraudulent action i.e., making an incorrect declaration / undertaking. In this regard, Mr. Shankar made the following submissions: -

i. The petitioner has submitted a document at Annexure P-4 on Page 68 of the paper book to state that, while applying in the year 2020 gave the following undertaking: -

“1. I, IC/SS No.: 16605 H Rank Air Cmde Name Navish Bahri hereby give an undertaking that I have been registered for General Employment COCO scheme in DGR (DGR Registration No. DGR (O)/14121). However, till date I have not got any resettlement benefit from the applied / registered schemes.”

ii. The said application for registration also at the bottom clearly states that the petitioner herein has certified that he has not availed of *“any resettlement benefits like Security Agency / Coal Transportation / COCO / Employment at Rajya Sainik Board / Zila Sainik Board etc., through DGR earlier.”*

iii. That it is an admitted position that the COCO RO scheme is a resettlement benefit and that the petitioner herein has already availed the same.

24. Mr. Shankar argued that the petitioner in W.P. (C) 10686/2020 has knowingly made misdeclaration in his application that he has *“...not got any resettlement benefit from the applied / registered schemes.”* That apart, he stated that

initially the respondent No.2 / DGR in September 2020, forwarded / recommended the name of the petitioner based on the petitioner's willful and wrong declaration made in his undertaking. However, upon verification of the records, it was found that the petitioner in the present writ petition being W.P. (C) 10686/2020 had already been a beneficiary and he is not entitled under the SOP governing the Directorate. Furthermore, the said SOP also provides that the period of running a permanent COCO RO is three years. In this regard, Mr. Shankar relied upon the following extracts of the SOP (Annexure P-2): -

“1. xxx xxx One such avenue is offered by Ministry of P & NG through all the oil marketing companies wherein Company Owned Company Operated (COCO) retail outlets of the Oil Marketing Companies like IOCL, HPCL and BPCL are offered to the Defence candidates on a contract basis for a period of three years for the permanent COCO outlets and one year for the temporary COCO outlets with provision of extending the contract period further by one more year. (i.e., two years maximum put together). xxx xxx”

25. According to Mr. Shankar, a reading of the above General statement in the SOP sets out that permanent COCO RO is offered on a contract basis for a period of three years. There is no provision for extension of the same. The SOP provides for extending the contract in respect of temporary COCO RO and not for permanent COCO RO.

26. In addition, Mr. Shankar contended that the petitioner in W.P. (C) 10686/2020 is a beneficiary of the COCO RO scheme. He had applied for and was given sponsorship for the COCO RO

scheme of Moti Nagar outlet, which he has run for its duration of three years. Respondent No.3 / HPCL on completion of the said sponsorship after three years floated a new request for sponsorship of the said HPCL RO to which the petitioner had applied again. It is submitted by Mr. Shankar that SOP issued by the Self Employment Directorate for the management of the COCO RO scheme under the eligibility conditions for officers in paragraph 4(d) spells out that the applicant: -

“....should not have availed any other benefit from DGR / RSB / ZSB earlier.”

27. According to Mr. Shankar, it is a matter of record that the petitioner in W.P. (C) 10686/2020 has availed and managed the Moti Nagar outlet of respondent No.3 / HPCL for three years. He is therefore not eligible for consideration again. That apart, he stated that the process of selection is governed as per the SOP for the management of COCO RO issued by the Self Employment Directorate of DGR. The petitioner has placed his reliance on the Brochure of COCO RO issued by the Oil Marketing Companies which is their internal document specifying the various nuances of management, salary, etc., and is in no way connected to the sponsorship process by the office of DGR. The sponsorship by DGR is only for ESM, whereas the Oil Marketing Companies in their wisdom are free to choose any candidate for the management of their RO at their discretion. The application and eligibility of the petitioner in W.P. (C) 10686/2020 have to be governed by the document under which he can apply, which in the present case is the SOP issued by the Self Employment

Directorate.

28. It is contended by Mr. Shankar that the DGR recommends the names of only those outlets for ESM, for which the Oil Companies approach the Office of DGR. The selection procedure as set out in the SOP of the Self Employment Directorate of DGR is further amplified by '*The Brochure for Selection of Service Provider for COCOs*' issued by the Oil Companies in paragraph 6, which is further subdivided into two parts. Paragraph 6.1 specifies selection through advertisement and paragraph 6.2 specifies selection through nomination from DGR / RSB, and ZSB.

29. Mr. Shankar also submitted that the petitioner has sought to contend that there are other instances where persons have been extended the resettlement benefits more than once and have given the instance of ESM, Group Captain Jayveera Pandian (Retd.) as having been sponsored twice by DGR for the management of COCO RO and that he is managing the COCO RO at Bharuch, Gujarat. In this regard, it is stated by Mr. Shankar that no such sponsorship has been done by DGR.

30. It is also averred by Mr. Shankar that the petitioner is misleading the Court by referring to the webpage relating to the Online Registration Process and in particular the contents thereof that mention that 'General Employment' will not be counted as a benefit availed from DGR. Mr. Shankar also stated that the COCO RO scheme is a 'Self-Employment' scheme and not a 'General Employment' scheme as is sought to be stated. The said webpage is for the 'Online Registration Process' and the

petitioner in W.P. (C) 10686/2020 was already registered by the physical process. In this regard, he further submitted that assuming that the manner in which the petitioner seeks to interpret the contents of the said webpage is correct, the same would not apply to the petitioner in any case since he has registered by physical means. COCO RO is an independent scheme controlled by the Self Employment Directorate. The SOP for the COCO RO scheme has been issued by the Self Employment Directorate and the interaction with Oil Marketing Companies for COCO RO and issuance of names for sponsorship is done by the Self Employment scheme. The petitioner's name was sponsored for the COCO RO scheme by the Self Employment Directorate.

31. Mr. Shankar submitted that once an ESM gives their willingness for nomination to COCO RO the names are forwarded to Self-Employment Directorate by the office looking after employment assistance. It is the Self Employment Directorate that further provides the names to the Oil Marketing Companies. In the case of the petitioner in W.P. (C) 10686/2020, it is seen that even his name which was initially sponsored was from the Joint Director of Self Employment Directorate and the Officer who has replied to the petitioner's e-mail dated December 05, 2020, is also from Self Employment Directorate and that the petitioner himself has addressed an e-mail to Self-Employment Directorate. In this regard, Mr. Shankar contended that it shows that the petitioner in W.P. (C) 10686/2020 is well aware of who is the controlling branch and has tried to deliberately confuse the

issue that COCO RO is administered by the Office providing employment assistance and not self-employment and which is a fallacy.

32. That apart, Mr. Shankar stated that nearly 1200 officers of the Armed Forces retire every year and respondent No.2 / DGR is hard-pressed to provide jobs / employment avenues / resettlement / employment assistance to all of them. The petitioner in W.P. (C) 10686/2020 is seeking to indulge in 'double-dipping'. The said scheme is open not only for Ex-Officers but also for JCOs, etc. This is of considerable relevance as, having retired as an Air Cmde, the petitioner is already in receipt of a pension of approximately ₹ 1,20,000/- a month and he is claiming a benefit that is also open to persons who are not even earning half that amount as pension. Moreover, the entry to these schemes and for availing their facilities as offered by the Government of India (meant exclusively for the ESM of the three regular Defence Services) are purely voluntary in nature and are governed by various Government rules, Orders, policies, etc., as applicable from time to time. The said service is provided across the board to retiring personnel from all the forces and thousands of persons are catered to by the Directorate on a regular basis. The various welfare schemes are always in demand and at any point in time, there is a waiting list for availing the benefits of the various schemes. The said facilities are privileges and not a right for they are to be distributed to every ESM in a fair, just, and equitable manner without favour or prejudice. Subsequently, the benefits accruing out of the said schemes cannot be claimed to be the

exclusive prerogative of a selected lot or person. He seeks the dismissal of the writ petition.

W.P. (C) 7250/2021

33. The case of the petitioner in W.P. (C) 7250/2021 and as contended by Mr. Pandey is: -

- i. The petitioner superannuated from the Indian Army as Colonel on July 05, 2014, after his request for premature retirement was accepted. According to Mr. Pandey, the petitioner in the year 2018 applied for the job of a service provider in COCO RO in the category of General Employment. Having been found eligible the name of the petitioner was sent for the job of the service provider to HPCL and accordingly was assigned a COCO RO at Sector-6, Faridabad on a Contractual basis from March 09, 2018, till March 09, 2021, i.e., for a period of 3 years.
- ii. That one ESM, by the name of Commander (Cdr) Sunder Singh who was running a COCO RO from December 16, 2017, to December 31, 2020, has been selected for the second time for the job for a period starting from January 01, 2021, to December 31, 2024. Accordingly, the petitioner also showed his willingness to be considered for the second time as a service provider of COCO of HPCL Centre, Sector-16, Faridabad. Being eligible, his name was forwarded by respondent No.4 i.e., District Sainik and ARDH Sainik Welfare Officer, Zila Sainik Board ('Sainik Welfare Officer ZSB', for short) duly certifying the status of the petitioner as an ESM as

per the eligibility criteria laid down by the respondent No.2 / DGR and respondent No.3 / HPCL. According to Mr. Pandey, the petitioner was called for an interview by HPCL and was selected. Moreover, it was also submitted that the petitioner in the said interview scored the highest marks amongst all the eligible ESM candidates for the job.

iii. The signature of the Sainik Welfare Officer, ZSB on the letter dated July 15, 2021, informing HPCL that the petitioner is not eligible for the job, was forged and was signed by some clerk instead of Sainik Welfare Officer, ZSB. Moreover, the petitioner received a Show Cause Notice dated July 12, 2021, by HPCL informing the petitioner regarding the cancellation of re-nomination as COCO RO service provider, however, the petitioner contended that the said Show Cause Notice dated July 12, 2021, was probably issued by HPCL by being under pressure from respondent No.2 / DGR.

iv. The petitioner vide letter dated July 26, 2021, submitted a detailed reply to the Show Cause Notice dated July 12, 2021, in which he pointed out all the relevant issues including the fact that he is fully eligible for the second re-nomination as per the policies issued by respondent No.2 / DGR and Sainik Welfare Officer, ZSB. He also highlighted the fact that there have been various such agencies where the name was forwarded by respondent No.2 / DGR or the ZSB including Sainik

Welfare Officer, ZSB e.g., Sunder Singh for COCO BPCL, Piyala, District Faridabad (at the same time when the name of the petitioner was also forwarded by the same ZSB Faridabad) and the RO was allotted to Sunder Singh for the second tenure which has not been questioned.

v. The petitioner while waiting for a formal letter of allotment, came to know that a complaint was made by one Subedar Satyavir / (respondent No.5) who had also participated in the process of selection and was placed at the second position in the merit, alleging irregularities. Consequently, the petitioner was in receipt of the impugned letter dated March 11, 2021, in which an issue has been raised about his eligibility for the Job, second time and also some procedural issue that the name of the petitioner should have been forwarded through the respondent No.2 / DGR and not through Sainik Welfare Officer, ZSB, Faridabad.

34. That Subedar Satyavir impleaded as respondent No.5 in terms of order dated September 29, 2021, is an ESM retired from the Indian Army who had also sought the benefit of the DGR scheme and had applied for the same. Mr. Atul Sahi / Mr. Dinesh Monga Advocates appeared for respondent No.5 / Subedar Satyavir submitted that the petitioner stood first in the declaration of results, was wrongly considered in violation of the Guidelines and Norms of 'Dual Benefit'. As per SOP, the eligibility of officers, as envisaged under Clause 4(d), states that ESM should

not have availed any other benefit from DGR / RSB / ZSB earlier. Also, as per Clause 7 of the SOP, DGR will be the Nodal office to forward names of officers and RSBs will be the Nodal office to forward names of JCOs. The petitioner having already availed the benefit of the DGR scheme for running the COCO RO for a period of 3 years w.e.f. 2018 till 2021, he was ineligible. Moreover, even the ZSB, Faridabad could not have forwarded the name of the petitioner for the job of the service provider since the petitioner is a permanent resident of Palwal and not of Faridabad. Mr. Sahi also submitted that the petitioner misread paragraph 3.1 of the brochure for sponsorship and his averments are completely misleading. The petitioner has deliberately concealed the SOP as framed by respondent No.2 / DGR for the sponsorship of ESM and JCOs for management of COCO RO.

35. Short reply has also been filed by Ms. Manisha Agarwal Narain, Advocate appearing on behalf of respondent No.4. She stated that the petitioner has violated the norms of eligibility criteria for the sponsorship of COCO RO mentioned in Clause 4(d) and Clause 7 of the SOP. She further submitted that the *mala fide* intentions of the petitioner are palpably clear from his conduct when the petitioner in the year 2018 was nominated for the job of the service provider for the COCO RO, the petitioner got his name forwarded through DGR only. However, while applying for the second tenure he was well aware of the fact that he cannot avail 'Dual Benefit', therefore, he got his name forwarded through the office of ZSB who was not authorized to do as per Clause 7 of the SOP. Ms. Narain also placed on record

the provision mentioned on page No.13 under the head '*Management of Company Owned Company Operated Retail Outlets*' in the information issued by the DGR (Annexure R-3), wherein it is mentioned that officers are required to be sponsored by the office of the DGR and JCOs through their respective RSBs. That apart, according to the Guidelines issued by the 'Government of India, Ministry of Defence, Department of Ex-Servicemen Welfare, Kendriya Sainik Board' (Annexure R-4) all retired service personnel are required to register themselves at the ZSB, where they propose to settle down after retirement as recorded in their discharge documents. This is mandatory for the issuance of ESM identity cards and for availing benefits under welfare schemes. According to Ms. Narain, the petitioner's *malafide* intention is evident from the fact that he is a resident of Distt. Palwal but he got his nomination sponsored from ZSB, Faridabad. She also stated that correspondence has been done with the petitioner where he is actually residing.

36. Mr. Tanveer Ahmed Ansari, learned Senior Panel Counsel for the UOI / respondent No.1 appearing in W.P. (C) 7250/2021 for respondent Nos.1 and 2 has argued and taken a similar stand as taken by the learned counsel appearing for the respondent Nos.1 and 2, Mr. Shankar in W.P. (C) 10686/2020. Consequently, Mr. Singh, Advocate appearing for respondent No.3 / HPCL in W.P. (C) 7250/2021 has also contended and taken the same stand as taken by him in W.P. (C) 10686/2020. Hence, in order to avoid the repetition of the submissions, I do not deem it appropriate to record the same herein.

37. Having heard the learned counsel for the parties and perused the record. Before I deal with the submissions, I deem it appropriate to reproduce the impugned order dated December 09, 2020, in W.P.(C) 10686/2020 and orders dated March 11, 2021, and July 15, 2021, in W.P.(C) 7250/2021 as under: -

“December 09, 2020

Dear Sir,

1. Reference your mail dated 05 Dec 2020, following points are submitted for your information please.

2. It is submitted that name of Air Cmde Navish Bahri (Retd) was fwd for nomination of COCO retail Outlet at Moti Nagar on 07 Sep 2020 after receiving the undertaking from the officer that he has not availed any benefit through DGR, however on representation from the environment and after verifying the fact that he name of the officer was earlier fwd by DGR on 01 May 2017 (attached as Appx) for COCO retail outlet at Moti Nagar for which the officer was subsequently selected and had successfully run the said COCO retail outlet for maximum period of three years, hence vide letter No 1422/DGR/SE-2/COCO dated 15 Oct 2020, the name of the officer was withdrawn from the panel and the same is regretted.

3. It is pertinent to mention that considering a large number of officers / JCOs retiring every year, it is the endeavour of DGR to give resettlement opportunities as formulated by the Govt Of India, Deptt of Ex Servicemen Welfare to benefit maximum ESM. Also, as per the SOP on COCO retail outlets formalised by DGR, the officer has already availed one benefit through DGR, hence his name was withdrawn to give other ESM/Veterans a fair chance to benefit from the said scheme. The maximum period of running a permanent COCO retail outlet is three years and the same is clearly specified on the DGR website.

*With Warm Regards
Rajesh Katoch.*

*Lt. Col Rajesh Katoch
Joint Director Self Employment and Corporate
Initiative
Directorate General Resettlement
Ministry of Defence, Govt. of India.”*

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“March 11, 2021

*Shri Arvind Govil
Deputy General Manager
HPCL, Gurugram Regional Office
104, First Floor, Silverton Tower
Golf Course Extension Road
Sector-50, Gurugram-122018
Haryana*

**NOMINATION OF DEFENCE PERSONNEL
FOR APPOINTMENT OF SERVICE
PROVIDER FOR COCO RETAIL OUTLET
UNDER GURUGRAM REGIONAL OFFICE IN
HARYANA**

- 1. Please refer to your letter No.GRO/COCO/2020-21 dated 13 Aug 2020 requesting for nomination of defence personnel as service provider at **HP Auto Care Centre, Sector-16, Faridabad** under Gurugram Regional Officer in the state of Haryana.*
- 2. Accordingly, on receipt of requisition vide ibib letter, this office had sponsored the name of one willing officer (Col Surender Pratap Singh) vide the office letter of even reference dated 22 Sep 2020.*
- 3. A complaint dated 09 March 2021 has been received at this office from Ex Subedar Satyavir*

requesting for cancellation / revocation of eligibility of Lt. Col Ravinder Chauhan (Retd) who has been provisionally selected for the said COCO retail outlet (copy of the letter is attached herewith).

4. The applicant vide his letter has complained that Lt. Col Ravinder Chauhan (Retd) who has already availed the benefit of DGR scheme for running the COCO retail outlet is not eligible for second tenure (as a dual benefit from the organization) and hence his candidature may be cancelled.

5. It is pertinent to mention here that the Company Owned Company Operated (COCO) Retails Outlets scheme is made available for management by retired defence officers and JCOs on contractual basis for a period of three years. As per COCO brochure, officers are sponsored by the office of DGR as they are registered with the office of DGR for employment. However, the JCOs are to be sponsored through their respective RSBs/ZSBs since they are registered in their respective RSB / ZSB.

6. In the instant case, It is evidence that this office has not sponsored the name of Lt Col Ravinder Chauhan for the above COCO retail outlet, he has also bypassed the DGR guidelines and guidelines of COCO brochure issued by MoP&NG and hence should not have been considered in the selection procedures at all.

7. The complaint forwarded by the applicant is genuine and needs consideration. The officer has not followed the procedures and bypassed DGR to avail the undue benefit. Since, Lt Col Ravinder Chauhan (Retd) is not sponsored by this office; his candidature is to be cancelled forthwith.

8. It is requested that feedback / outcome of the service provider's selection for the subject COCO retail outlet may be forwarded to this office to settle the grievances of the applicant and also for

our record.

9. For your information and necessary action, please.

(Rajesh Katoch)
Lt Col
Jt Dir (SE)
For DG(R) ”

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“July 15, 2021

To
DGM, Vigilance
Hindustan Petroleum Corporation Ltd
3rd Floor, UCO Bank Building
5, Parliament Street (Sansad Marg)
New Delhi-110001

Regarding nomination of Lt. Col. Ravinder
Chauhan (Retd) for appointment of Service
provider for COCO Retail Outlet under HPCL,
Gurugram Retail Regional Office.

1. Refer to your letter No.GRO/RET/VKP dated 06 Jul 2021.
2. It is submitted that the anomalies /illegality in nomination of Col. Ravinder Chauhan for appointment of service provider, COCO Retail Outlet under HPCL Gurugram Region has already been communicated by Jt Dir (SE) DGR, West Block IV, R K Puram, New delhi vide Para 1 to 8 of letter No. 1422/DGR/SE-2/COCO dated 11 Mar 2021 (Copy attached for ready reference)
3. It is also submitted that the case of Retd Defence Officers are sponsored by the office of DGR only as they are registered with DGR for employment, and not by Zila Sainik Board,

Faridabad. In the instant case, officer, Lt Col Ravinder Chauhan (Retd) has bypassed the DGR Guidelines and his case was illegally sponsored by the then Secretary Maj R K Sharma (Retd), Zila Sainik Board Faridabad, presently posted as Welfare Officer at Sainik and Ardh Sainik Welfare Officer, Jhajjar.

4. Four your information & necessary action, as deemed fit, please.

*Welfare Officer
Distt Sainik and Ardh Sainik Welfare Officer
Sector-16, Faridabad”*

The stand of the respondent Nos.1 and 2 is that the petitioners are not eligible for re-nomination to operate COCO RO for the second time. The pleas of Mr. Pandey are the following: -

(i) The respondent Nos.1 and 2 / DGR has forwarded the names of eligible candidates to HPCL after duly scrutinizing the eligibility criteria.

(ii) The COCO RO has not been treated as a disqualification or ineligibility on the ground that such employment benefit has also been availed by the ESM on earlier occasions.

(iii) The SOP issued by the respondent Nos.1 and 2 vide paragraph 6 has clearly mentioned that only those disqualifications which have already been mentioned in ‘The Brochure for Selection of Service providers for COCOs 2017’ by the Oil Marketing Companies will be applicable for the job of service providers in COCO RO.

(iv) A combined reading of the instructions referred to above establishes that in respect of general employment, the job of the service providers shall not be counted as a benefit availed from DGR. Therefore, the petitioner cannot be held to be ineligible in terms of paragraph 4(d) which provides a condition that, for nomination, the ESM should not have availed any other benefit.

(v) Paragraph 3 of *'The Brochure for Selection of Service providers for COCOs 2017'* by the Oil Marketing Companies provides that the existing service provider will be eligible to apply for the contract of service provider for the COCO RO already under contract with him.

(vi) The re-nomination by an existing service provider is only a formality because he has to undergo the process of selection like all other candidates who are eligible and nominated for the job by respondent No.2 / DGR.

(vii) One Officer senior to the petitioner namely Group Captain Javyeera Pandian (Retd.) was nominated for a second time by respondent No.2 / DGR is successfully running the COCO RO of Bharat Petroleum Corporation Limited.

38. To understand the above submissions of Mr. Pandey, it is necessary to reproduce some of the provisions of the SOP and *'The Brochure for the selection of service providers for COCOs*

2017’:

**“STANDARD OPERATING PROCEDURE
SPONSORSHIP OF EX-SERVICEMEN
OFFICERS AND JCOs FOR MANAGEMENT
OF COMPANY OWNED COMPANY
OPERATED (COCO) RETAIL OUTLETS”**

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Eligibility.

4. For Offices. Desirous ESM Officer should meet the following criteria:-

- (a) Should be an ESM as per laid down definition.
- (b) Should be below 60 years of age at the time of sponsorship and be registered with DGR under General Employment scheme / RSB/ZSB as per their policy for providing employment.
- (c) Minimum 10th pass (Examination conducted by a recognized Board / School)
- (d) Should not have availed any other benefit from DGR/RSB/ZSB earlier.
- (e) Should be able to provide Bank guarantee as per Oil Company requirement at the time of selection.

5. For JCOs. Desirous ESM JCO should meet the following criteria:-

- (a) Should be below 60 years of age at the time of sponsorship and be registered with RSB/ZSB.
- (b) Minimum 10th pass (Examination conducted by a recognized Board/School)
- (c) Should not have availed any other benefit from DGR/RSB/ZSB earlier.
- (d) Should be able to provide bank guarantee as per Oil Company requirement.
- (e) Havildar's (Hony Naib Subedar) & Equivalent ranks will not be eligible for the said scheme in accordance with paragraph 178(b) of Defence Service Regulations, Vol 1.

Disqualification.

6. As per Para 3 the guidelines laid down vide “The Brochure for Selection of Service provider for

COCOs 2017” by the Oil Marketing Companies.

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Period of Contract.

10. The selected candidate will have to execute a standard agreement with the corporation and will be required to abide by the terms and conditions thereof.

(a) The agreement with the Service Provider for the permanent COCO outlets will be for a period of three years.

(b) The agreement with the Service Provider for the temporary COCO outlets will be initially for a period of one year with provision of extending the contract period further by one more year (i.e. two years maximum put together). However, extension of the contract would be solely at the discretion of the oil company.

(c) The Service Provider if after his appointment is issued an LOI for dealership or distributorship of any Oil Company; he shall have to resign from the contract of Service Provider by giving immediate (within 7 days) suitable notice to the Corporation for termination of contract within next 90 days. During the period of notice and working as Service Provider, Letter of Appointment (LOA) for dealership/distributorship should not be accepted nor should operation of dealership/distributorship be started.

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Guidelines for Selection of COCO Service Provider
Guidelines for selection of Service Provider for providing Manpower & Services at Company Owned Company Operated (COCO) Retail Outlets

1. Categories of Candidates for Selection

1.1 Through Advertisement:

An advertisement will be released in the

newspaper inviting applications for appointment of COCO Service Providers. For this purpose, a capsule advertisement will be released in two newspapers giving 30 days' time to the applicants to submit their applications.

1.2 Nomination from Director General for Resettlement (DGR)/Rajya /Zila Sainik Boards:

Director General for Resettlement (DGR) Headquarters/ Rajya and concerned Zila Sainik Board will be approached seeking nominations for eligible retired officials (eligible officers of rank JCO and above). DGR / Rajya and concerned Zilla Sainik Board of the concerned State will be requested to respond within 30 days of issuance of letter seeking such nominations.

2. Eligibility Criteria:

a. Age	<i>Indian National with Minimum Age 21 yrs and Maximum Age 60 yrs.</i>
b. Educational Qualification	<i>Minimum 10th pass (examination conducted by a recognized Board / School)</i>
c. Finance	<i>Assessment of Liquid assets for Rs.15 lacs (As defined in clause 5.2.3.1). However, the selected candidate will be required to furnish BG equivalent to 3 days sales which may vary</i>

	<i>from location to location.</i>
<i>Nominees of DGR/ Rajya and Zila Sainik Boards (under para 1.2)</i>	<i>The recommendations of concerned Department besides other eligibility criteria.</i>

- ***Applicant should meet all eligibility criteria as on the date of application. Although applicants will be evaluated on finance, however, it is not an eligibility criterion.***
- ***Only individuals can apply***
- ***Proof of age should be supported by copy of 10th standard Board Certificate / Secondary School Leaving Certificate / Birth Certificate / Passport / Affidavit for Age / Voter Identity Card issued by Election Commission.***

NOTE:

The selected Service Provider will have to register himself with EPF and ESIC within a specified period before commencement of contract.

3. Disqualification :

3.1. Following will not be eligible to apply:

- ***Any Individual holding (including “family” member as defined in the Note below) RO / SKO / LPG dealership/distributorship or LOI for RO / SKO / LPG dealership/distributorship of any Oil Company (PSU as well as private oil company).***
- ***COCO service provider of any Oil Company– PSU as well as private oil company - (by any name like Labour***

Contractor / Job Contractor etc.). However, existing Service Provider / Job Contractor / Labour Contractor will be eligible to apply for the contract of Service Provider for the COCO already under contract with him/her.

3.2. Person Convicted by a Court of Law for any criminal offence involving moral turpitude and / or economic offences.

3.3. Signatories of dealership / distributorship agreements of any Oil Company terminated on account of adulteration / malpractice.

3.4. The landlord (including “family” members as defined in Note below) of the concerned COCO Retail Outlet site.

3.5. Non individual applicants like Govt. Organizations/Bodies, PSUs, Co-Operative Societies, partnership firms.

Note: The definition of family unit:

In case of married person/applicant the “family unit” will consist of self, spouse and unmarried son(s) / unmarried daughter(s) and in case of unmarried person/ applicant the “family unit” will consist of self, father, mother, unmarried brother(s) and unmarried sister(s).

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21. Agreement:

The selected candidate will have to execute a standard agreement with the corporation and will be required to abide by the terms and conditions thereof.

- The agreement with the Service Provider*

*for the **permanent COCO** outlets will be for a period of **three years**.*

- The agreement with the Service Provider for the **temporary COCO** outlets will be initially for a period of **one year** with provision of extending the contract period further by one more year (i.e., two years maximum put together). However, extension of the contract would be solely at the discretion of the Oil company.*
- The Service Provider if after his appointment is issued an LOI for dealership or distributorship of any Oil Company, he shall have to resign from the contract of Service Provider by giving immediate (within 7 days) suitable notice to the **Corporation** for termination of contract within next 90 days. During the period of notice and working as Service Provider, Letter of Appointment (LOA) for dealership / distributorship should not be accepted nor operation of dealership / distributorship should be started.”*

(emphasis supplied)

39. Having noted the relevant provisions of the SOP / Brochure, issued by the DGR / Oil Companies, it must be stated that it is only on the sponsorship of ESM Officers by the DGR and JCOs by the RSB / ZSB, the Oil Company consider the application of the sponsored candidate(s) from the Brochure issued by the Oil Companies. As noted from above, it is the re-nomination of the petitioners to respondent No.3 / HPCL, that the DGR / ZSB has cancelled, which are under challenge in

these petitions.

40. Mr. Shankar and Mr. Anurag Singh have relied upon Clause 4(d) of the SOP reproduced above under the heading eligibility which states that desirous ESM Officers should not have been availed any other benefit from the DGR / RSB / ZSB earlier.

41. The plea of Mr. Pandey was that the ESM who had availed the benefit of the scheme like Security Agency, Gas Agency, Transportation of Coal etc., are only ineligible. In other words, a person who has availed the benefit as a service provider of COCO RO is not ineligible. I am not in agreement with the said submission of Mr. Pandey. Clause 4(d) is applicable to ESM who intends to seek the benefit of the scheme to operate COCO RO for the first time. If the ESM has availed the benefit from DGR / RSB / ZSB, he shall not be eligible seeking re-nomination from the DGR (in the case of Officers) and RSB (in the case of JCOs).

42. This, I say so, keeping in view the objective of the scheme i.e., for re-settlement and welfare of the ESMs in view of their dedicated service to the nation. It is a matter of common knowledge and also stated by the respondents in their counter affidavit that a large number of Officers retire from Armed Forces every year. The DGR is hard-pressed to provide jobs / employment avenues / re-settlement / employment assistance to all of them and the welfare schemes are always in demand at any point in time, and there is a waiting list for availing the benefits of the various schemes. The said facilities are privileges and not rights and are to be distributed in a fair, just and equitable manner without favour and prejudice and the intent is to assist such Armed Forces personnel to enhance the income, they receive from the services to support their family.

43. Further, there is no stipulation in the SOP for renewal / extension of contract / sponsorship except in the case of a temporary contract which is for a period of one year by a further period of one more year, the maximum being for two years. The submission of Mr. Pandey that a reading of paragraph 4(d) and paragraph 6 of the SOP which refers to paragraph 3 of the Brochure (of the oil companies) under the heading “*Disqualification*” which contemplates existing service provider / job contractor / labour contractor will be eligible to apply for the contract of the service provider in the COCO RO already under contract with him / her is unmerited.

44. In this regard, I may state that the Brochure of the Oil Companies is meant for selection of service provider through open selection and also through nomination from DGR / RSB / ZSB (Clause 1.1 and 1.2) but the nomination from DGR / RSB / ZSB is as per SOP issued by DGR. The Brochure of oil companies cannot determine the eligibility for nomination by DGR / RSB / ZSB. In these petitions, this Court is concerned with the nomination from DGR / RSB / ZSB. Paragraph 3.1 is a non-eligibility Clause. Clause 3.1 shall not be applicable to sponsorship by DGR / RSB, inasmuch as the eligibility for sponsorship by the DGR / RSB and ZSB is as per SOP.

45. It necessarily follows that a person having already availed COCO RO for the first time, is not eligible for the re-nomination / re-sponsorship for the second time in terms of Clause 4(d). The plea of Mr. Pandey was also by relying upon Clause 10(b) of the SOP which states that extension of the contract would be solely at the discretion of the Oil Company. The said Clause has to be read in the context of the provision, which relates to the award of contract of temporary COCO RO for one

year, extendable for another year i.e., two years maximum put together. It is in the context of the said extension that the Clause stipulates that the extension of the contract would be solely at the discretion of the Oil Companies.

46. Even on facts, I find, it was the understanding of the petitioner in W.P.(C) 10686/2020 that the benefit of COCO RO availed once would not entitle the service provider re-nomination / re-sponsorship for the second time. This, I say so, because the petitioner had in his undertaking given, while submitting his application has clearly stated the following:-

**“UNDERTAKING FORMAT FOR THE
OFFICER WHO ARE APPLYING FOR
EMPLOYMENT ASSISTANCE”**

1. I, IC/SS No.:16605 H Rank Air Cmde Name Navish Bahri hereby give an undertaking that I have been registered for General Employment COCO Scheme in DGR (DGR Registration No.DGR(O)/14121). However, till date I have not got any resettlement benefit from the applied/registered DGR Schemes.

2. In case of my selection in this offer for the post of COCO Retail Outlet at Ms/HSD HP Centre, Moti Nagar, in 1642020 HI CL, COCO Retail Outlet at (Organisation Name), I shall cease to be a “Bonafide Claimer” for any other DESW/DGR Schemes and do undertake that it shall be my inescapable duty inform DGR of my selection & appointment.

3. If in case of any violation of my undertaking, action be taken against me by way of deregistering / debarring me from all DESW/DGR schemes and jobs by the Principal Employer (s).”

(emphasis supplied)

47. The above depicts that the petitioner has represented that he has not got any re-settlement benefit from the applied /

registered DGR scheme. It is an accepted position that the petitioner had registered himself for providing services at COCO RO and had got the benefit for the period 2018-21.

48. The plea of Mr. Pandey that the undertaking consisting of the words *"I have not got any re-settlement benefit from the applied / registered DGR Scheme"* are pre-typed words which could not be edited and there was no alternative for the applicant to give such an undertaking, is clearly an afterthought and in fact it justifies the case of the respondent No.2 / DGR that such a benefit cannot be given for the second time and it is for that reason that those words have been incorporated in the undertaking in a pre-typed form. That means the applicant cannot say, he has availed the benefit earlier.

49. Similarly, I find, the petitioner in the W.P. (C) 7250/2021 has availed the benefit for the second time by getting his application re-nominated through ZSB which is not permissible in terms of Clause 7 reproduced above as the petitioner is a retired officer, had to necessarily get his re-nomination / re-sponsorship to the Oil Companies from the DGR. The intent was obvious, to circumvent the DGR, to get the benefit for the second time contrary to Clause 4(d).

50. It was the plea of Mr. Pandey that one Group Captain Jayveera Pandian (Retd.) even after availing the benefit of COCO RO has been re-nominated for the second time, hence the cancellation of re-nomination / re-sponsorship of the petitioners as service providers of COCO RO is bad and seek parity is concerned, I am afraid such a plea of Mr. Pandey cannot be

accepted in view of my conclusion above with regard to the provisions of the SOP issued by the respondent Nos.1 and 2 governing the nomination / sponsorship of the Officers / JCOs for the management of COCO RO, which clearly reveal that there cannot be any re-nomination for the second time, being contrary to the very nature of the scheme to provide re-settlement and welfare of ESMs. It is settled law, that the concept of equality as envisaged under Article 14 of the Constitution is a positive concept which cannot be enforced in a negative manner, as held by the Supreme Court in *State of Bihar and Ors. vs. Kameshwar Prasad Singh and Ors.*, MANU/SC/0358/2000, and by this Court in *Jitendra Singh Naruka vs. University of Delhi & Ors.*, W.P. (C) 6025/2014.

51. I do not see any merit in the petitions, the same are dismissed. No costs.

CM No. 33540/2020 in W.P.(C) 10686/2020
CM No. 22858/2021 in W.P.(C) 7250/2021

Dismissed as infructuous.

V. KAMESWAR RAO, J

NOVEMBER 23, 2021/aky