

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.A. No. 160 of 2014

Area Manager, Indian Oil Corporation Appellant
Ltd., Bhubaneswar

Mr. Pitambar Acharya, Senior Advocate
-versus-

Kabita Sarangi and others Respondents
None

CORAM:
THE CHIEF JUSTICE
JUSTICE CHITTARANJAN DASH

ORDER
08.09.2022

Order No.

04. 1. The challenge in the present appeal is to two orders. One dated 30th January, 2014 passed by the learned Single Judge in W.P.(C) No.939 of 2014 and the subsequent order dated 4th April, 2014 in Misc. Case No.4080 of 2014 in the same writ petition.
2. The aforementioned W.P.(C) No.939 of 2014 was filed by Respondent Nos.1 and 2 aggrieved by the inaction of the present Appellant i.e. Indian Oil Corporation Limited (IOCL) in not giving them LPG connections despite an order dated 30th August 2012 by the Collector & District Magistrate, Jagatsingpur in that regard.
3. It must be noted that the above writ petition was the second round of litigation. In the first round, the said two Respondents had filed W.P.(C)

No.7007 of 2012, which was disposed of by the learned Single Judge on 16th May, 2012 with a direction to the Collector to consider their representation and pass appropriate orders.

4. Pursuant thereto, the Collector issued a direction on 17th December, 2012 directing IOCL to supply the requisite number of LPG connections through the DSMS, Jagatsinghpur.

5. When the above direction was not complied with, the second writ petition was filed, which has been disposed of by the first impugned order dated 30th January, 2014 directing IOCL to comply with the Collector's order within a period of four weeks.

6. Misc. Case No.4080 of 2014 was filed by the IOCL seeking recall of the above order dated 30th January, 2014 essentially on the ground that no notice had been issued to IOCL before the said order dated 30th January, 2014 was passed. However, this application was dismissed by the second impugned order dated 4th April, 2014 on the ground that the IOCL had not challenged the earlier order dated 16th May, 2012 in W.P.(C) 7007 of 2012.

7. Mr. Pitambar Acharya, learned Senior Counsel appearing for the Appellant-IOCL points out that there was no occasion for the IOCL to challenge the first impugned order dated 16th May, 2012 passed in W.P.(C) 7007 of 2012 since it was an innocuous order that merely required the Collector to examine the representation made by the writ petitioners. That in no way prejudiced IOCL as such.

8. He however points out that as far as the order dated 17th December, 2012 of the Collector's order is concerned, it was fundamentally flawed since the jurisdiction under which the writ petitions operated did not fall within the region served by IOCL. There may have been other suppliers of LPG, who could have been asked to provide LPG cylinders. In any event, Mr. Acharya submits that this fact was perhaps not even present to the mind of the Collector when he passed the order dated 17th December, 2012. He further states that even the order 30th January, 2014 of the learned Single Judge was passed without notice to the IOCL, which necessitated the filing of an application by IOCL for recall of that order.

9. Having considered the above submissions in light of the orders passed by the learned Single Judge, this Court is of the view that neither of the impugned orders can be sustained in law since both failed to appreciate the fundamental principle that IOCL ought to have been heard before orders adverse to it could have been passed either by the Collector, Jagatsinghpur or even by the learned Single Judge. On that short ground both the impugned orders are hereby set aside.

10. W.P.(C) No.939 of 2014 is however restored to the file of the learned Single Judge where it will be listed for directions on 26th September 2022, on which date the IOCL shall remain present through its counsel before the learned Single Judge. Since the original writ Petitioners have not appeared in this writ appeal, the learned Single Judge will proceed with the matter after issuing notice to those writ Petitioners. If they are not present before the learned Single Judge on

26th September, 2022 and if they fail to appear thereafter despite notice, it would be open to the learned Single Judge to pass appropriate orders in accordance with law.

11. The writ appeal is disposed of in the above terms.

(Dr. S. Muralidhar)
Chief Justice

(Chittaranjan Dash)
Judge

S. Behera/M. Panda

