



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2022

CORAM

THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.10515 of 2019 and
WMP.No.11018 of 2019

Raji David

... Petitioner

Vs

1. Chitradevi

2. The Senior Area Manager,
Indian Oil Corporation Ltd.,
(Marketing Division), Indane Area Office,
No.8/1079, Avinashi Road,
Coimbatore.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent herein proceedings CBEAO/MGP/2019 dated 08.03.2019 and subsequent proceedings CBEAO/MPG/2019 of the 2nd respondent dated 27.03.2019 is illegal and quash the same and consequently direction to direct the 2nd respondent to conduct the fresh enquiry.

For Petitioner : Mr.K.Rajendra Prasad

For Respondents: Mr.V.Anantha Natarajan (for R2)
R1 - Notice not ready

O R D E R

Heard Mr.K.Rajendra Prasad, learned counsel for the petitioner and Mr.V.Anantha Natarajan, learned counsel for R2.

2. The petitioner challenges letters issued by the Indian Oil Corporation Limited (IOCL)/R2 dated 08.03.2019 and 27.03.2019. The letters effect re-constitution of the distributorship originally in the name of Shree Mahaganapathy Gas Service awarded to Late K.Devendran, in favour of one Chitradevi and four children of late K.Devendran as partners with equal share. The petitioner is to be the guardian of the minor children.



3. R2 encloses, inter alia, an application form for re-constitution of the distributorship as aforesaid and the petitioner has been advised to submit the application form along with necessary documents on or before 21.03.2019.

WEB COPY

4. The petitioner and the private respondent, i.e., R1 are engaged in litigation in O.S.No.151 of 2009 before the District Munsif Court, Bodinayakanur and the same is pending. In this Writ Petition, the claim of the petitioner is that she is entitled to the award of distributorship, as she is the legally wedded wife of said K.Devendran.

5. R1 had filed a Writ Petition in W.P.No.5644 of 2012 arraying the petitioner herein as R2, which came to be disposed by this Court by order dated 05.09.2018 directing IOCL to consider the representation of the petitioner therein/R1 herein once filed, within a period of four weeks, after hearing all/necessary parties.

6. A Review Petition came to be filed by the petitioner herein, albeit with a delay. That came to be disposed even at the SR stage by order dated 25.01.2019 noting the specific submission of Mr.Rajendra Prasad, learned counsel appearing for the petitioner at that juncture and now as well, that the petitioner was ready to cooperate with the enquiry.

7. IOCL was directed to maintain status quo with regard to the award of distributorship till the disposal of the said representation. Writ Appeal in W.A.No.706 of 2019 appears to have been filed by this petitioner, which has come to be dismissed for non-prosecution on 29.04.2019 noting that on four occasions the appellant had not been present.

8. It is upon consideration of the orders passed by this Court in W.P.No.5644 of 212 dated 05.09.2018 and review application in SR stage dated 25.01.2019, that the impugned communications have been issued. A perusal of communication dated 08.03.2019 reveals that personal hearings were held on 23.01.2019 and 29.01.2019 upon the subject matter as well.

9. This Writ Petition has been filed on 04.04.2019 and an order of status quo obtained on 09.04.2019. Thus the petitioner has chosen to challenge the communication of the second respondent calling for enquiry despite having agreed before the Court on 25.01.2019 that she would cooperate with the enquiry to be conducted and has successfully frustrated the proceedings before R2, for a period of nearly 3 years. The undertaking of the counsel who appeared for the review petitioner (petitioner before me), is recorded at paragraph 2 of order dated 25.01.2019.



10. In light of the aforesaid, there is absolutely no merit in this Writ Petition. Having consented to cooperate with the enquiry, the petitioner has gone back on that assurance and has thwarted the conduct of the proceedings afresh by IOCL, till date.

11. This Writ Petition is dismissed. However, in view of the elapse of time between 2019 till date and also the fact that R2 vide communication dated 08.03.2019 does not assign any reason for the re-constitution of the distributorship in favour of R1 and the children of Late K.Devendran through the petitioner herein, let notice be issued by R2 to both the petitioner as well as R1 for a hearing to be conducted within a period of two (2) weeks from date of receipt of a copy of this order.

12. After hearing the parties, a speaking order should be passed by R2 assigning reasons for the award of distributorship to one or the other party within a period of four (4) weeks from date of first hearing. R2 will also, in this regard, take note of the litigation in O.S.No.151 of 2009, which is stated to be pending before the District Munsif Court, Bodinayakanur and the fate of the same. No costs. Connected Miscellaneous Petition is also dismissed.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

S1

To

The Senior Area Manager,
Indian Oil Corporation Ltd.,
(Marketing Division), Indane Area Office,
No.8/1079, Avinashi Road, Coimbatore.

Copy To:

The District Munsif, Bodinayakanur.

+1cc to Mr.V.Anantha Natarajan, Advocate, S.R.No.12559

+1cc to Mr.K.Rajendra Prasad, Advocate, S.R.No.11924

W.P.No.10515 of 2019 and
WMP.No.11018 of 2019

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