



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.01.2022

CORAM

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P. (MD)Nos.16473 and 20817 of 2021

and

W.M.P. (MD)Nos.13352, 13353, 17426 and 17427 of 2021

WEB COPY

W.P. (MD)No.16473 of 2021:-

S.Subbaiah Das

... Petitioner

vs.

- 1.The Divisional Head (LPG-S),
Indian Oil Corporation Limited,
Indane Area Office,
No.2, Race Course Road,
Chokkikulam, Madurai-625 002.
- 2.The Deputy General Manager (LPG-S),
Indian Oil Corporation Limited,
Indane Area Office,
No.2, Race Course Road,
Chokkikulam, Madurai-625 002.
- 3.The Committee Member,
Enquiry Committee,
Indane Area Office,
No.2, Race Course Road,
Chokkikulam, Madurai-625 002.
- 4.The Manager (LPG-S),
Block No.1, Yami Apartment,
Udayanagar, NGO "B" Colony,
Tirunelveli Town,
Tirunelveli District-627 007.
- 5.The Vigilance Officer,
Vigilance Department,
Indane Oil Corporation Limited,
Scope Complex Core-2,
7, Industrial area, Lodhi Road,
New Delhi-110 023.
- 6.S.Mukesh
- 7.Suvitha



8.Sudalai @ Vinoth

9.Chandra

10.K.Komala

11.V.Susila

12.J.Viajayalakshmi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned orders bearing No.Ref:MAO/69/19, dated 28.05.2020 on the file of the second respondent and the consequential impugned order bearing No.Ref:MAO/361/2021, dated 26.08.2021 on the file of the first respondent and quash the same as illegal and consequently, to direct the second respondent to reimburse the fine amount paid by the petitioner of a sum of Rs.5,45,782.46/- to the petitioner.

For Petitioner : Mr.G.Prabhu Rajadurai
for R.Shankar Ganesh

For R1 and R2 : Mr.K.Muralidharan

For R6, 7 and 9 to R12 : No Appearance

W.P. (MD)No.20817 of 2021:-

S.Subbaiah Das

... Petitioner

vs.

1.The Divisional Head (LPG-S),
Indian Oil Corporation Limited,
Indane Area Office,
No.2, Race Course Road,
Chokkikulam, Madurai-625 002.

2.The Deputy General Manager (LPG-S),
Indian Oil Corporation Limited,
Indane Area Office,
No.2, Race Course Road,
Chokkikulam, Madurai-625 002.

3.S.Mukesh

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned orders bearing No.Ref:MAO/458/21, dated 28.10.2021 on the file of the first



respondent and quash the same as illegal and consequently, to direct the first respondent to not to entertain vexatious complaints from the third respondent's family and friends as against the petitioner.

For Petitioner : Mr.G.Prabhu Rajadurai
for R.Shankar Ganesh
For R1 and R2 : Mr.K.Muralidharan

WEB COPY

COMMON ORDER

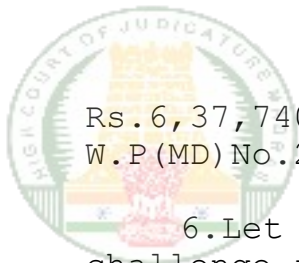
W.P.(MD)No.16743 of 2021 had been filed in the nature of Certiorarified Mandamus seeking interference with the orders of the second and first respondents dated 28.05.2020 and 26.08.2021, respectively and seeking a direction to the second respondent to reimburse the fine amount paid by the petitioner of a sum of Rs.5,45,782.46/-.

2.W.P.(MD)No.20817 of 2021 had been filed in the nature of Certiorarified Mandamus seeking interference with the order of the first respondent, dated 28.10.2021 and to direct the first respondent to not to entertain vexatious complaints from the third respondent's family and friends as against the petitioner.

3.Heard Mr.G.Prabhu Rajadurai, learned Counsel for Mr.R.Shankar Ganesh, learned Counsel for the petitioner and Mr.K.Muraleedharan, learned Counsel for Respondents 1 to 5 in W.P.(MD)No.16473 of 2021 and Respondents 1 and 2 in W.P.(MD)No.20817 of 2021.

4.The petitioner was Proprietor of one Nellai Indane Gas Agency at Tirunelveli. Various irregularities have been alleged against him. Since an enquiry has to be conducted by the official respondents, let met not enter into a detailed discussion about the facts. If in the course of any discussion, any opinion is expressed, it might prejudice either the petitioner or to the respondents. Therefore, quite specifically, I restrain myself from entering into any discussion on facts. The show cause notice, dated 28.05.2020 is questioned in W.P.(MD)No.16473 of 2021.

5.There are a string of judgments which had been stated to hold that challenge to a show cause notice should not be entertained by any of the Court of law and a direction must be given to the petitioner to reply to the said show cause notice. However, the Writ Petition has been filed immediately on the very next day and it has been kept pending till this date. The petitioner did not reply to the said show cause notice. This led to the official respondents to issue the impugned order, whereby, in view of the irregularities and more particularly, in view of the explanation not being given, it had been stated that the petitioner is deemed to have accepted the commission of such irregularities and finally, it had been stated that penalty had been imposed on the petitioner to a sum of



Rs.6,37,740.10/- . This is impugned in the second Writ Petition in W.P(MD)No.20817 of 2021.

6.Let me of centre down to the basic principle, namely, that challenge to a show cause notice is strictly not maintainable before a Writ Court under Article 226 of Constitution of India. However, the petitioner had filed the Writ Petition. The matter had been kept pending for the past four or five months. In the meanwhile, the second impugned notice came to be passed inviting the petitioner to file the second Writ Petition.

7.Let me set the clock a little back and set aside the impugned notice, dated 28.10.2021 and direct the petitioner to give a reply to the show cause notice, dated 26.08.2021. On receipt of a reply, the official respondents are at liberty to pass any order in accordance with the averments made in the show cause notice and in the reply given by the petitioner.

8.In view of that particular opinion expressed by me, W.P.(MD) No.20817 of 2021 is allowed and the impugned order, dated 28.10.2021 is struck down.

9.The official respondents are not left high and dry. The petitioner is directed to reply to the show cause notice issued in W.P.(MD)No.16473 of 2021 within a period of 15 days from the date of receipt of a copy of this order and on receipt of such reply, the official respondents are at liberty to proceed further in manner known to law. Therefore, W.P(MD)No.16473 of 2021 is disposed of granting liberty to the petitioner as aforesaid to reply to the said show cause notice.

10.In the said Writ Petition, there is yet another impugned notice, which is questioned, namely, dated 28.05.2020 by which the petitioner had been imposed with a fine of Rs.5,45,782/- . The challenge to that is withdrawn by the learned Counsel for the petitioner. That fine stands.

11.In effect

(1)W.P.(MD)No.16473 of 2021 is disposed of. A direction is given to the petitioner to reply to the show cause notice, dated 26.08.2021 within a period of 15 days from the date of receipt of a copy of this order.

(2)W.P.(MD)No.20817 of 2021 is allowed and the impugned order, dated 28.10.2021 is struck down.

(3)The official respondents are at liberty to proceed in manner known to law, if reply is given by the petitioner to the show cause notice within a period of 15 days, as directed supra in (1).



(4) If the petitioner can fit himself into the four corners of the rules and regulations and if deemed so, he may file an appeal questioning the impugned order, dated 28.05.2020. Acceptance and admittance of such appeal is left to the discretion of the official respondents.

5) No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

cmr

To

1. The Divisional Head (LPG-S),
Indian Oil Corporation Limited,
Indane Area Office,
No.2, Race Course Road,
Chokkikulam, Madurai-625 002.

2. The Deputy General Manager (LPG-S),
Indian Oil Corporation Limited,
Indane Area Office,
No.2, Race Course Road,
Chokkikulam, Madurai-625 002.

+1 CC to M/s.MURALEEDHARAN, Advocate SR-777 dated 07/01/2022

W.P. (MD) Nos.16473 and 20817 of 2021
06.01.2022

RK(24/01/2021) 5P 4C