

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI**

3-4 05.4.2023
Sc Ct. no.2

**WPA 2356 OF 2021
with
I.A.No. CAN 1 OF 2022**

M/s. Eureka Oil. Com (A Unit of
Eureka Engineers' cum Fuel Dealers
Co-operative Society Limited)
represented by its Board of Directors
-vs.-
Indian Oil Corporation Limited & Ors.

With

**WPA 1039 OF 2019
with
I.A.No. CAN 1 OF 2020
with
I.A.No. CAN 2 OF 2021
with
I.A.No. CAN 3 OF 2021
with
I.A.No. CAN 4 OF 2022**

**Eureka Engineers' cum Fuel Dealers
Co-operative Society Limited
represented by its Board of Directors**
-vs.-
Indian Oil Corporation Limited & Ors.

Mr. Kunaljit Bhattacharjee
Mr. Alok Sah.

.... For the Petitioners

Mr. Sudipto Kumar Mazumdar
Mr. Ajoy Kumar Singhanian.

....For the UOI

Mr. Bikramaditya Ghosh

.... For the IOCL

These two writ petitions are ready for hearing
after completion of affidavits.

These two writ petitions were taken up for
consideration by this Court on yesterday, i.e., April

4, 2023 and a detailed order was passed, the same speaks for itself.

A triangle dispute. One point is the **Indian Oil Corporation**, the second point is the **Ministry of Defence** through the local Army Authority and the third point of the triangle is the **writ petitioners**.

The writ petitioners sought to be appointed as a dealer in respect of a petrol pump to be carried out on a plot of land owned by them. The petitioners applied before the Indian Oil Corporation Limited (for short the IOCL) and the dealership was granted. The Ministry of Defence through the local Army Authority raised an objection while the infrastructural construction was being built up at the said plot of land at **Salugara** by the petitioners. Several representations were made by the writ petitioners as well as by the IOCL before the local Army Authority for withdrawal of its objection and to allow the land to be infrastructurally developed to carry out the dealership of the IOCL by constructing a petrol pump. The Army Authority did not pay any heed to any of such representations. The IOCL finally terminated the dealership of the petitioners. This led the petitioners to file the said two writ petitions, **WPA 1039 of 2019** challenging the inaction of the

Army Authority and the second one being **WPA 2356 of 2021** challenging the decision of IOCL terminating the dealership of the petitioners.

Upon considering the rival contentions made on behalf of the appearing parties and on perusal of the materials on record, it appeared to this Court that, ***a very tiny issue that clinches the subject matter of both these two writ petitions that, whether the local Army Authority would withdraw its objection or not.***

Mr. Sudipto Kumar Mazumdar, learned Deputy Solicitor General, today, pursuant to the observation made by this Court on April 4, 2023 had informed this Court that, ***the Station Commander, Station Head Quarter, Sevoke Road, Sevoke Military Station, Salugara, District Darjeeling*** is the appropriate authority to decide the issue.

In view of the above, the following directions are made :

- i) IOCL shall submit a comprehensive representation in the light of the issues involved in these two writ petitions before the said local Army Authority named above positively within a period of two weeks from date;

- ii) the petitioners shall submit its comprehensive representation before the said local Army Authority named above within a period of two weeks from date;
- iii) after receiving the said two representations the said local Army Authority shall issue at least a seven days' prior hearing notice to both IOCL and the petitioners identifying the venue and mentioning the time and date where the hearing shall take place and then after giving both of them an opportunity of hearing shall decide the issue strictly in accordance with law with a reasoned order positively within a period of ten weeks after receiving the said representations from IOCL and the petitioners;
- iv) the local Army Authority shall also grant an opportunity to both IOCL and the petitioners to deal with the relevant documents, rules, regulations which they shall be relying upon so that a meaningful opportunity will be granted to the parties during such hearing.

- v) the local Army Authority thereafter shall communicate its reasoned order to IOCL and the petitioners within a further period of two weeks from the date of the said reasoned order to be passed.

In the event the reasoned order goes in favour of the appearing party and/or parties before the said Army Authority, the local Army Authority and/or any other appropriate authority shall take immediate steps to give effect thereto but positively within a further period of four weeks from the date of communication of such reasoned order to such appropriate authority/authorities.

It is made clear that this Court has not gone into the merits of the claim of any of the parties before this Court and all these parties shall be at liberty to urge whatever points they wish to urge during the hearing before the said local Army Authority by relying upon whatever records and documents they wish to rely upon but positively upon prior notice to the said local Army Authority.

In the event the objection stands withdrawn by the local Army Authority, the IOCL shall take necessary steps immediately strictly in accordance with law to revisit the issue of termination of dealership.

It is further made clear that this order shall not create any equity or right in favour of any of the parties before this Court in the event the respective parties are not eligible to receive their claim strictly in accordance with law.

On the above terms, both these two writ petitions, **WPA 1039 of 2019** and **WPA 2356 of 2021 with all its connected applications stand disposed of** without any order as to costs.

Photocopy of this order be kept with the records of each of these writ petitions.

Photostat certified copy of this order, if applied for, be furnished expeditiously.

(Aniruddha Roy, J.)