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W.P.No.6189 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2023

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.6189 of 2017

and

W.M.P.Nos.6674 & 6689 of 2017

M/s. State Lorry Owners Federation,
Indian Oil Dealer, SF No.135/1E, Pappanaickenpatty,
Muthalaipatty, Namakkal - 637002.
Rep. by its President,
R.Kumarasamy.

...Petitioner

-Vs-

Indian Oil Corporation Limited,
Marketing Division, Salem Divisional Office,
No.234, 1st Floor, NH-7, Salem-Bangalore Bypass Road,
Kondalampatti, Salem - 636010, rep. by its
Chief Divisional Retail Sales Manager.

...Respondent

Prayer:- Writ petition filed under Article 226 of the Constitution of India calling for the records relating to the notification issued by the respondent Viz. Notice For Engagement of Service Provider for its corporation Owned and Corporation operated retails outlets (COCO) dated Nil quash the same in respect of the petitioners retail outlet situated at Keerambur in Namakkal District (Swagat Ro.272/2013 Rasampalayam NH-7 Keerambur - 637 207) Sl.No.8 is concerned.



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For Petitioner : M/s.S.Doraisamy

For Respondent : Mr.M.Vijay Meganath

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ORDER

The notification issued by the respondent viz., NOTICE FOR ENGAGEMENT OF SERVICE PROVIDED FOR ITS CORPORATION OWNED AND CORPORATION OPERATED RETAIL OUTLETS (COCO) is sought to be quashed in the present writ petition.

2. The petitioner is a State Lorry Owners Federation. The petitioner made a request to appoint the petitioner/Federation as a regular dealer for the Petroleum Outlet. The respondent/Oil Corporation informed the petitioner that policy matter has to be decided by the Union Ministry and till such time the petitioner can run the Retail Outlet as an ad hoc Dealer. Accordingly, the petitioner was appointed in the year 2009 as a COCO operator and it was being extended every year. The last extension was granted in proceeding dated 23.12.2016 and the period for ad hoc dealership was granted for one year. Thus, the period expired on 23.12.2017.



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3. The grievance of the writ petitioner is that they are eligible to be appointed as a permanent Retail Outlet Operator and therefore, they must be considered for appointment on regular basis. Since, the claim of the petitioner was not considered by the respondent, they have constrained to move the present writ petition, challenging the notification issued by the Corporation for appointment of Outlet Dealers.

4. The petitioners have relied on the circular dated 02.02.2022 and as per the circular, in case of COCO which had been already divested and allotted to eligible LOI holder, land owners (including their nominees) will be eligible to offer for dealership at an alternate site on certain terms.

5. The learned counsel for the respondent raised an objection by stating that the respondent/Oil Corporation has taken a policy decision not to divest and therefore, the petitioner is not eligible for appointment as a permanent Retail Outlet Dealer. That apart, the appointment of ad hoc Dealership and the condition stipulated in the appointment order unambiguously stipulates as follows:-



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" 4. The said temporary arrangement shall remain in

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force from for a period of ONE YEAR commencing from 24.012.2016 i.e. the date of handing over to you by the Corporation as hereinafter stated. The period of ad hoc Dealership is purely temporary and the Ad hoc Dealership is liable termination at any point of time without assuming any reason whatsoever."

6. In view of the fact that the period of agreement expired in the year 2017 and the writ petition has been filed challenging the notification issued in the year 2017, the cause did not exist and more so, the guidelines for policy circular issued on 02.02.2022 cannot have any retrospective application so as to restore the lapsed agreement in the year 2017. If at all, the petitioner is eligible, they are at liberty to participate in the process, if any notification has been issued by the respondent/ Oil Corporation for appointment of Retail Outlet Dealer. It is brought to the notice of this Court that the petitioner can participate in the process of selection for service provider if they are otherwise eligible.



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WEB COPY 7. Accordingly, the writ petition stands dismissed. No costs.

Consequently, the connected miscellaneous petitions are closed.

(shr)

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Index : Yes/No

Speaking / Non Speaking Order

Neutral Citation : Yes/No



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S.M.SUBRAMANIAM. J.,

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