



WP(MD)No.15412 to 15416

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On : 24.03.2023
Pronounced On: 06.07.2023

CORAM:
THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)Nos.15412 to 15416
and 15604 to 15613 of 2014
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M/S. GOTHANDAPANI AGENCIES (AD HOC)
DEALER HINDUSTAN PETROLEUM CORPORATION LIMITED,
TRICHY REGION, OPERATED BY LAND OWNER
V. PRAKASH
REPRESENTED BY POWER AGENT, P.MAHALAKSHMI
NO.367/1 ALADUKKUMULAI VILLAGE,
PATTUKOTTAI, THANJAVUR MAIN ROAD,
THANJAVUR DISTRICT. ... PETITIONER IN WP(MD) NO.15412 OF 2014

M/S R.C.S. AGENCIES (AD HOC) DEALER
HP CORPORATION LTD. TRICHY REGION
OPERATED BY LAND OWNER C.VELAYUTHA THEVAR
REP. BY P.A V.PANNEER SELVAM AVANAM KAIKATTI,
PUDUKKOTTAI. ... PETITIONER IN WP(MD) NO.15413 OF 2014

M/S.S.S.RAMACHANDRAN AGENCY(AD HOC)
DEALER HINDUSTAN PETROLEUM CORPORATION LTD.
TRICHY REGION OPERATED BY LAND OWNER
MR. S.N.SIVANATHAN ... PETITIONER IN WP(MD) NO.15414 OF 2014



WP(MD)No.15412 to 15416

M/S. SUGANYA FILLING STATION
(AD HOC) DEALER HPC LTD.,
MADURAI REGION
MR. A. THASIR KHAN S/O.ABDUL RAHEEM
THATHANERI MAIN ROAD MADURAI-625 018.

... PETITIONER IN WP(MD) NO.15415 OF 2014

M/S MADURAI FILLING STATION
(ADHOC) DEALER,, HP CORPORATION LTD. MADURAI
REGION O/P BY LAND OWNER K.R.GANESAN
S/O KRUPPIAH PILLAI T.ATHIKULAM,
NEW NATHAM ROAD., MADURAI 14

... PETITIONER IN WP(MD) NO.15416 OF 2014

M/S. SRI RADHAKRISHNAN AUTOMOBILES (AD HOC)
H. P. C.LTD. REP BY POWER AGENT
MR.SUDHAGAR S/O.SADASIVAM
M.KALLUPATI ROAD ELUMALAI. MADURAI- 535.

... PETITIONER IN WP(MD) NO.15604 OF 2014

M/S UNITED AUTO SERVICE AGENCY
(ADHOC) DEALER HCP TRICHY
OPRT. BY LAND OWNER J.M. SHAMEEM NO.35 A6&A7
THARANGAMBADI MAIN RD. SEMBANARKOIL
TARAQBAR TK. NAGAPATTINAM DISTRICT.

... PETITIONER IN WP(MD) NO.15605 OF 2014



WP(MD)No.15412 to 15416

M/S. KANIVANNA (AD HOC) DEALER
HPC LTD TRICHY REGION REP BY POWER
AGENT MR. V. OMALINGAM S/O. VAITHILINGAM
9 BHARATHIYAR ROAD VARICHIKUDY KOTTUCHERI
KARAIKAL PONDY UT

... PETITIONER IN WP(MD) NO.15606 OF 2014

M/S. UNITED AUTO SERVICES
(AD HOC) DEALER H. P. C.LTD.
TRICHY REGION OPERATED BY LAND OWNER
MRS. S.K. DURGESWARI AMBAGARATHUR VILLAGE,
KARAIKAL DISTRICT.

... PETITIONER IN WP(MD) NO.15607 OF 2014

M/S M.K. VEERASAMY AGENCIES
(ADHOC) DEALER HCP LTD. TRICHY REGION
OPRD. BY LAND OWNER R.PACKIAM
3/720/1 EAST MAIN RD. THIRUVALANSUZHI THARASURAM
KUMBAKONAM TK. THANJAVUR

... PETITIONER IN WP(MD) NO.15608 OF 2014

M/S. SRI GOPI KARTHIKEYAN
(*) AGENCY (AD HOC) HPC LTD. MADURAI REGION
LAND OWER MR. S. SIVANANDI S/O. SUBBAIYA
THEVAR NO.8-C SAMAYA STREET CUMBAM
THENI DISTRICT.

... PETITIONER IN WP(MD) NO.15609 OF 2014

M/S. M. SYED MOHAMED (AD HOC)
DEALER HINDUSTAN PETROLEUM CORPORATION LIMITED,
TRICHY REGION,
OPERATED BY LAND OWNER
MR.THIRUSANGU VANNIAR
THANJAVUR.

... PETITIONER IN WP(MD) NO.15610 OF 2014

M/S. A.K.R. FUELS (ADHOC)

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(DEALER HCP LTD. MADURAI REGION OPRD. BY
LAND OWNER S.MOHAMMED ALIJINNAH
S/O SHAHUL HAMEED NO.3/A3 RAMANATHAPURAM ROAD.
SAYALKUDI RAMNAD.

... PETITIONER IN WP(MD) NO.15611 OF 2014

M/S. K. RANGASAMY NAIDU(AD HOC HPC LTD.
MADURAI REGION, OPRD. BY
LAND OWNER MR. K. PARAMAN
S/O. KARUTHHAMMA THEVAR KONGUPATTI MADURAI
MAIN ROAD USILAMPATTI MADURI DISTRICT.

... PETITIONER IN WP(MD) NO.15612 OF 2014

M/S. MEENAKSHI PETROLEUM PRODUCTS (AD - HOC)
DEALER. H.P.C.LTD. LAND OWNER
MR. A.SYED MOHAMED S/O. ABDUL RAHEEM
S. NO. 188/6 NO. 80 ALATHUR G.EMBAKOTTAI VILLAGE,
AVUDAIYAR KOVIL TALUK, PUDUKOTTAI DISTRICT.

... PETITIONER IN WP(MD) NO.15613 OF 2014

VS.

THE SENIOR REGIONAL MANAGER,
HINDUSTAN PETROLEUM CORPORATION LIMITED,
TRICHY RETAIL REGIONAL OFFICE,
NO.90 II FLOOR, MDSR ENCLAVE,
BHARATHIDASAN ROAD,
CONTONMENT,TRICY - 620 001.

... RESPONDENT IN WP(MD) NO.15412 OF 2014

THE SENIOR REGIONAL MANAGER
HPC LTD. TRICHY RETAIL REGIONAL OFFICE NO.90
II FLOOR, MDSR ENCLAVE BHARATHIDASAN ROAD

<https://www.hmc.tn.gov.in/judis>



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CONTONTMENT TRICHY-620 001.

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... RESPONDENT IN WP(MD) NO.15413 OF 2014

THE SENIOR REGIONAL MANAGER
HINDUSTAN PETROLEUM COPORATION LTD.
TRICHY RETAIL REGIONAL OFFICE
NO. 90 II FLOOR MDSR ENCLAVE BHARATHIDASAN ROAD
CONTONTMENT TRICHY- 001.

... RESPONDENT IN WP(MD) NO.15414 OF 2014

THE SENIOR REGIONAL MANAGER
HPC LTD. MADURAI RETAIL REGIONAL OFFICE 7
III FLOOR RAKESH TOWERS BYEPASS ROAD
MADURAI-625 010.

... RESPONDENT IN WP(MD) NO.15415 OF 2014

THE SENIOR REGIONAL MANAGER
HPC LTD. MADURAI RETAIL REGIONAL OFFICE
NO.7 III FLOOR RAKESH TOWER BYE PASS ROAD
MADURAI 10

... RESPONDENT IN WP(MD) NO.15416 OF 2014

THE SENIOR REGIONAL MANAGER
HINDUSTAN PETROLEUM CORPORATION LTD.
MADURAI RETAIL REGIONAL OFFICE 7 III FLOOR
RAKESH TOWERS BYEPASS ROAD MADURAI- 010.

... RESPONDENT IN WP(MD) NO.15604 OF 2014

THE SENIOR REGIONAL MANAGER HPC LTD.
TRICHY RETAIL REGIONAL OFFICE NO. 90
II FLOOR MDSR ENCLAVE BHARATHIDASAN

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ROAD CANTONMENT TRICHY 620 001

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... RESPONDENT IN WP(MD) NO.15605 OF 2014

THE SENIOR REGIONAL MANAGER HPC LTD.
TRICHY RETAIL REGIONAL OFFICE,
III FLOOR RAKESH TOWERS 90 II FLOOR MDSR
ENCLAVE BHARATHIDASAN ROAD CONTONTMENT
TRICHY-620 001.

... RESPONDENT IN WP(MD) NO.15606 OF 2014

THE SENIOR REGIONAL MANAGER
HINDUSTAN PETROLEUM CORPORATION LTD.
TRICHY RETAIL REGIONAL OFFICE NO. 90 II FLOOR
MDSR ENCLAVE BHARATHIDASAN ROAD
CONTONMENT TRICHY- 001.

... RESPONDENT IN WP(MD) NO.15607 OF 2014

THE SENIOR REGIONAL MANAGER HPC LTD.
TRICHY RETAIL REGIONAL OFFICE NO.90
II FLOOR MDSR ENCLAVE BHARATHIDASAN ROAD
CANTONMENT TRICHY 620 001

... RESPONDENT IN WP(MD) NO.15608 OF 2014

THE SENIOR REGIONAL MANAGER
HINDUSTAN PETROLEUM CORPORATION LTD.
MADURAI RETAIL REGIONAL OFFICE 7 III FLOOR
RAKESH TOWERS BYEPASS ROAD MADURAI- 010.

... RESPONDENT IN WP(MD) NO.15609 OF 2014

THE SENIOR REGIONAL MANAGER
HINDUSTAN PETROLEUM CORPORATION LTD. TRICHY
RETAIL REGIONAL OFFICE NO. 90 II FLOOR

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MDSR ENCLAVE BHARATHIDASAN ROAD
CONTONMENT TRICHY- 001.

... RESPONDENT IN WP(MD) NO.15610 OF 2014

THE SENIOR REGIONAL MANAGER
HINDUSTAN PETROLEUM CORPORATION LTD.
MADURAI RETAIL REGIONAL OFFICE NO.7
III FLOOR RAKESH TOWERS, BYE PASS ROAD
MADURAI 10

... RESPONDENT IN WP(MD) NO.15611 OF 2014

THE SENIOR REGIONAL MANAGER
HINDUSTAN PETROLEUM CORPORATION LTD.
MADURAI RETAIL REGIONAL OFFICE 7 III FLOOR
RAKESH TOWERS BYEPASS ROAD MADURAI- 010.

... RESPONDENT IN WP(MD) NO.15612 OF 2014

THE SENIOR REGIONAL MANAGER
HINDUSTAN PETROLEUM CORPORATION LTD. TRICHY
RETAIL REGIONAL OFFICE NO. 90 II FLOOR
MDSR ENCLAVE BHARATHIDASAN ROAD
CONTONMENT TRICHY- 001.

... RESPONDENT IN WP(MD) NO.15613 OF 2014

PRAYER IN WP(MD) 15412 OF 2012:

Writ Petition filed under Article 226 of the Constitution of India, writ of certiorified mandamus calling for the records of the respondent herein viz., the proceedings bearing No.TRO/TV-LEG/RET dated 09.09.2014 in respect of the

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petitioner's retail outlet at No.367/1 Aladukkumulai Village, Pattukottai-Thanjavur Main Road, Pattukottai, Thanjavur District and quash the same and consequently, forbear the respondent herein, its men, agents, subordinates, or any other person or persons claiming through it or authorised by it, from in any manner, interfering with the operation of the retail outlet by the petitioner at No.367/1 Aladukkumulai Village, Pattukottai-Thanjavur Main Road, Pattukottai, Thanjavur District.

Prayer in WP(MD) No.15413 of 2014:

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records of the respondent, herein viz. the proceedings bearing no.TRO/TV-LEG/RET dt.9.9.2014 in respect of the petitioner's Retail Outlet at Avanam Kaikatti, Pudukkottai District, and quash the same and consequently, forbear the Respondent herein, its men, agents, subordinates, or any other person or persons claiming through it or authorized by it, from, in any manner, interfering with the operation of the Retail outlet by the petitioner at Avanam Kaikatti, Pudukkottai District.

Prayer in WP(MD) No.15414 of 2014:

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records of the respondent, herein viz. the proceedings bearing No.TRO/TV-LEG/RET dt.9.9.2014



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in respect of the petitioner's Retail Outlet at T.R. Pattinam, Vanjur, Karaikal District, Pondy UT, and quash the same and consequently, forbear the Respondent herein, its men, agents, subordinates, or any other person or persons claiming through it or authorized by it, from, in any manner, interfering with the operation of the Retail outlet by the petitioner at T.R. Pattinam Vanjur, Karaikal District Pondy Ut.

Prayer in WP(MD) No.15415 of 2014:

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records of the respondent, herein viz. the proceedings bearing no.MDRO/VK/RET dt. 10.9.2014 in respect of the petitioner's Retail Outlet at Thathaneri Main Road, Madurai 625 018, and quash the same and consequently, forbear the Respondent herein, its men, agents, subordinates, or any other person or persons claiming through it or authorized by it, from, in any manner, interfering with the operation of the Retail outlet by the petitioner at Thathaneri Main Road, Madurai-625 018.

Prayer in WP(MD) No.15416 of 2014:

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified Mandamus calling for the records of the



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respondent, herein viz. the proceedings bearing no.MDRO/VK/RET dt.10.9.2014 in respect of the petitioner's Retail Outlet at T.Athikulam, New Natham road, Madurai 14 and quash the same and consequently, forbear the Respondent herein, its men, agents, subordinates, or any other person or persons claiming through it or authorized by it, from, in any manner, interfering with the operation of the Retail outlet by the Petitioner at T.Athikulam, New Natham road, Madurai 625 014.

Prayer in WP(MD) No.15604 of 2014:

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the respondent herein, viz the proceedings bearing No. MDRO/VK/RET. dt. 10.09.2014 in respect of the petitioner's Retail outlet at M.Kallupati Road, Elumalai, Madurai 625 535 and quash the same and consequently, forbear the Respondent herein, its men, agents subordinates, or any other person or persons claiming through it or authorized by it, from in any manner interfering with the operation of the Retail Outlet by the petitioner at M.Kallupatti Road, Elumalai, Madurai 625 535 .

Prayer in WP(MD) No.15605 of 2014:

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the respondent herein, viz the proceedings bearing No. TRO/TV-LEG/RET. dt.

<https://www.nclt.tn.gov.in/jdis>



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09.09.2014 in respect of the petitioner's Retail outlet at No. 35, A6 & A7 Tharangambadi Main Road, Sembanar Koil, Taraqbar Taluk, Nagapattinam District and quash the same and consequently, forbear the Respondent herein, its men, agents subordinates, or any other person or persons claiming through it or authorized by it, from in any manner interfering with the operation of the Retail Outlet by the petitioner at No. 35, A6 & A7 Tharangambadi Main Road, Sembanar Koil, Taraqbar Taluk, Nagapattinam District .

Prayer in WP(MD) No.15606 of 2014:

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the respondent herein, viz the proceedings bearing No.TRO/TV-LEG/RET. dt. 09.09.2014 in respect of the petitioner's Retail outlet at no.9, Bharathiyar Road, Varichikudy, Kottucheri, Karaikal, Pondy UT, and quash the same and consequently, forbear the Respondent herein, its men, agents subordinates, or any other person or persons claiming through it or authorized by it, from in any manner interfering with the operation of the Retail Outlet by the petitioner at No.9, Bharathiyar Road, Varichikudy, Kottucheri, Karaikal, Pondy UT.

Prayer in WP(MD) No.15607 of 2014:

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Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the respondent herein, viz the proceedings bearing No. TRO/TV-LEG/RET . dt. 09.09.2014 in respect of the petitioner's Retail outlet at at Ambagarathur Village kumbakonam Main Road, Karaikal District, Pondy UT, and quash the same and consequently, forbear the Respondent herein, its men, agents subordinates, or any other person or persons claiming through it or authorized by it, from in any manner interfering with the operation of the Retail Outlet by the petitioner at Ambagarathur Village, Kumbakonam, Main Road, Karaikal District, Pondy UT.

Prayer in WP(MD) No.15608 of 2014:

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the respondent herein, viz the proceedings bearing No. TRO/TV-LEG/RET. dt. 09.09.2014 in respect of the petitioner's Retail outlet at No.3/720/1, East Main Road, Thiruvallansuzhi , Tharasuram, Kumbakonam Taluk, Thanjavur District and quash the same and consequently, forbear the Respondent herein, its men, agents subordinates, or any other person or persons claiming through it or authorized by it, from in any manner interfering with the operation of the Retail Outlet by the

petitioner at 3/720/1, East Main Road, Thiruvallansuzhi , Tharasuram,
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Kumbakonam Taluk, Thanjavur District

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Prayer in WP(MD) No.15609 of 2014:

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the respondent herein, viz the proceedings bearing No. MDRO/VK/RET.. dt. 10.09.2014 in respect of the petitioner's Retail outlet no.8-C, Samaya Street, Cumbam, Theni District, and quash the same and consequently, forbear the Respondent herein, its men, agents subordinates, or any other person or persons claiming through it or authorized by it, from in any manner interfering with the operation of the Retail Outlet by the petitioner at 8-C, Samaya Street, Cumbam, Theni District.

Prayer in WP(MD) No.15610 of 2014:

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the respondent herein, viz the proceedings bearing No. TRO/TV-LEG/RET . dt. 09.09.2014 in respect of the petitioner's Retail outlet at No. 17/28,Mukasa Kaiyanapuaram, Thiruvaiyaru, Thanjavur District and quash the same and

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consequently, forbear the Respondent herein, its men, agents subordinates, or any other person or persons claiming through it or authorized by it, from, in any manner, interfering with the operation of the Retail Outlet by the petitioner at No. 17/28, Mukasa Kaiyanapuaram, Thiruvaiyaru, Thanjavur District and pass such further or other orders.

Prayer in WP(MD) No.15611 of 2014:

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the respondent herein, viz the proceedings bearing No. MDRO/VK/RET. dt. 10.09.2014 in respect of the petitioner's Retail outlet at No.3/A3, Ramanathapuram Road, Sayalkudi , Ramanad District and quash the same and consequently, forbear the Respondent herein, its men, agents subordinates, or any other person or persons claiming through it or authorized by it, from in any manner interfering with the operation of the Retail Outlet by the petitioner at at No.3/A3, Ramanathapuram Road, Sayalkudi , Ramanad District.

Prayer in WP(MD) No.15612 of 2014:

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the respondent herein, viz the proceedings bearing No. TRO/TV-LEG/RET. dt.



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10.09.2014 in respect of the petitioner's Retail outlet Kongupatti Madurai Main Road, Usilmapatti Madurai District, and quash the same and consequently, forbear the Respondent herein, its men, agents subordinates, or any other person or persons claiming through it or authorized by it, from in any manner interfering with the operation of the Retail Outlet by the petitioner at Kongupatti Madurai Main Road, Usilmapatti Madurai District.

Prayer in WP(MD) No.15613 of 2014:

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the respondent herein, viz the proceedings bearing No. TRO/TV-LEG/RET . dt. 12.09.2014 in respect of the petitioner's Retail outlet at No. 188/6 No. 80 , alathur G Embakottai village, Avudaiyakovil tk, Pudukottai district 614 621 and quash the same and consequently forbear the respondent herein, its men, agents, subordinates, or any other person or persons claiming through its or authorized by it, from, in any manner, interfering with the operation of the Retail outlet by the Petitioner at S. No. 188/6, No. 80, Alathur G. Embakottai Village, Avudaiyarkovil tk, Pudukottai District.

(In all WP's')
For Petitioner

: Ms.AL.Gandhimathi
Senior Counsel,



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for Mr.C.Mahadevan
: Mr.M.Sridhar

For Respondent

COMMON ORDER

These writ petitions are filed challenging the orders of the respondent Hindustan Oil Corporation directing the petitioners to wind up the operation of retail outlets run by the petitioners and for a consequential direction to forbear the respondent herein, its men, agents, subordinates, or any other person or persons claiming through it or authorised by it, from in any manner, interfering with the operation of the retail outlets.

2.The learned Counsel for the petitioners submits that the petitioners are the land owners. They have entered into a lease agreement with the respondent Corporation on the promise that they would be provided with the dealerships. However, the dealership was not provided to the petitioners as promised by them, whereas it was granted to the nearby agencies in the year 2004. Though the dealership was granted to the nearby agencies still the petroleum outlets in their premises are operated by the petitioners.

3.The learned Counsel for the petitioners further submits that on 06.09.2006



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the Government of India has introduced a policy of phasing out a temporary COCO's [Company Owned Company Operated] by allotting the retail outlets to the cases of pending letter of intent holders, who were selected under various categories such as (a) Special Sheme (operation Vijay-Kargil) the Kargil allottees (b) Discretionary quota scheme, (c) Corpus fund scheme and (d) other categories as prescribed in the marketing plans. However, the allotments were not made under any of the above categories.

4.The learned Counsel further submits that on 28.07.2014 the Ministry of Petroleum Corporation has directed all the Oil companies including HPCL that diversement of all COCO's may be kept on hold till the review policy is done in this regard. While so the respondent Corporation has passed the respective impugned orders in the month of September 2014, whereby directed the petitioners close down the operation in the premises within a period of fifteen days. At the time of entering agreement, the corporation promised that the petitioners would be given dealerships. But unfortunately, the dealerships were granted to the near by agencies. Only by relying on promise made by the respondent Corporation, the petitioners have invested huge amount and established the retail outlets. But all of a sudden they are directed to close it down and due to the same the petitioners are facing great hardships and financial losses. Therefore, the impugned orders are liable to be



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quashed.

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5.The learned Counsel for the respondent submits that an advertisement was issued in the year 2002-2003 to call for the lands from the land owners or from the co-land owners for setting up the retail outlet for the respondent corporation. The said advertisement is only for retail outlet and not for retail outlet dealership. The dealerships were given to the neighbouring agencies by separate agreements for a temporary period. However, there is no authorised letter given by the respondent corporation to the dealers to authorise the land owners to operate the retail outlets. The learned Counsel for the respondent further submits that the dealerships given to the dealers is only on ad-hoc basis and there is no policy in existence which enables the corporation to regularise the ad-hoc dealers.

6.The learned Counsel further submits that it is a second round of litigation. The petitioners have already filed a writ petition before this Court in WP(MD)No. 7357 of 2009 with a prayer to direct the respondent to provide dealership to the petitioners and the writ petition was tagged along with writ appeals in WA(MD)Nos.160 of 2010, etc., and it was dismissed by this Court by observing that the issue involved therein was already settled by the Hon'ble Supreme Court in Mohamed.Jamal Vs Union of India and Ors reported in (2014) 1 SCC 201. The prayer sought for in these writ petitions are also similar to the prayer sought for in



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WP(MD)No.7357 of 2009, which was already dismissed and therefore, there is no need to interfere with the impugned orders.

7.This Court considered the rival submission and perused the materials placed on record.

8.Admittedly the petitioners are the land owners of the property. They entered into a lease agreement with the respondent corporation in the year 2003/2004 to lease out their lands for the retail outlets to the respondent Corporation for a period of thirty years on monthly rental basis. However, the petitioners claim that instead of providing dealership for the retail outlets to the petitioners, as promised by them, provided the same to the nearby agencies for a temporary period. The petitioners further claim that even though the dealership agreement was entered between the nearby agencies and the respondent Corporation, the premises are still run by the petitioners only. Since the dealership is only for a temporary period, the petitioners filed a writ petition before this Court to regularise the dealership as a permanent one and a Division of this Court dismissed the said writ petition with an observation that the issue had already been settled by the Hon'ble Supreme Court.

9.Citing the order of the Division Bench dismissing the earlier writ petition, the respondent Corporation has directed the petitioners to vacate the premises as per clause 3 of the agreement, vide the orders passed in the month of September



2014, which are challenged in these writ petitions by the writ petitioners.

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10.It is relevant to extract the decision of the Hon'ble Supreme Court in Mohamed.Jamal Vs Union of India and Ors reported in (2014) 1 SCC 201.

“58. In order to appreciate the difference between the two concepts, it has to be understood that the concept of a dealership in respect of a retail outlet is completely alien to the concept of a COCO unit. While the former deals with the right of the dealer to independently operate the retail outlet, in the case of a COCO unit, the entire set up of the retail outlet is owned by the Oil Companies and only the day-to-day operation thereof is outsourced to a M&H Contractor. With the discontinuance of the earlier policy of granting dealerships in respect of retail outlets and the introduction of a new policy awarding M&H Contracts in respect of the COCO outlets, in our view, the land owners who had entered into fresh lease agreements after the policy to grant dealerships had been suspended, cannot now claim any right on the basis of the earlier policy in the absence of any Letter of Intent having been issued thereunder. Had any Letter of Intent, which tantamounts to grant of dealership, been issued and then in respect of the same lands COCO units were established, the situation would have been different. Placed in such a position, the land owners cannot claim any relief in these proceedings and, if any loss or damages have been suffered by them on account of the assurance earlier given regarding grant of dealership, particularly in making the sites ready therefor, the remedy of such applicants would lie elsewhere. The policy guidelines and, in particular, Clauses 1.2 and 1.2.2 thereof are not available to the Appellants and the Petitioners in these proceedings, which are concerned mainly with COCO units which have no connection with the concept of dealership.



59. We are inclined to hold that the doctrine of promissory estoppel and legitimate expectation, as canvassed on behalf of the Appellants and the Petitioners, cannot be made applicable to these cases where the leases have been granted by the land owners on definite terms and conditions, without any indication that the same were being entered into on a mutual understanding between the parties that these would be temporary arrangements, till the earlier policy was restored and the claim of the land owners for grant of dealership could be considered afresh. On the other hand, although, the nominees of the lessors were almost in all cases appointed as the M&H Contractors, that in itself cannot, in our view, convert any claim of the land owner for grant of a permanent dealership. As has been indicated hereinbefore, even the M&H Contractor had to submit an affidavit to the effect that he did not have and would not have any claim to the dealership of the retail outlet and that he would not also obstruct the making over possession of the retail outlet to the Oil Company, as and when called upon to do so. The decisions cited on behalf of the Appellants/Petitioners, are not, therefore, relevant for a decision in these cases. Although, the Appeals have been filed on account of the denial to the land owners of the grant of dealership in respect of the lands demised by them to the Oil Companies, the entire focus has shifted to COCO outlets on account of the fresh lease agreements entered into by the Appellants with the Oil Companies which has had the effect of obliterating the claim of the land owners made separately under earlier lease agreements. The claims of the Appellants/Petitioners in the present batch of matters have to be treated on the basis of the agreements subsequently entered into by the Oil Companies, as submitted by the learned Attorney General."



11.The petitioners have only entered into lease agreement with the respondent Corporation and the terms and conditions of the said lease agreement is extracted hereunder:

“ ... And whereas the lessor has agreed for the grant of lease of the demised premises for a period of thirty years from 01.01.2004 to 31.12.2033 and renewable thereafter as herein provided at a monthly rental and on the terms and conditions hereinafter referred to:

... ..

3.Provided always and it is mutually agreed as follows:

The lessee shall be at liberty to licence or sublet the demised premises or any part thereof for use for all or any of the purpose aforesaid without the consent of the lessor”

12.Further a dealership agreement entered with the proprietors of the concerned nearby agencies in the year 2004 and the relevant terms and conditions of the dealership agreement is extracted hereunder:

“

2. ... to operate the said retail outlet purely on a temporary basis till such time we are in a position to appoint a regular dealer:

3.Accordingly, we hereby appoint you as a temporary dealer to operate the said outlet solely on the temporary basis subject to termination by either party giving to the other 15 days written notice in that behalf.

6.The Corporation doth hereby grant to you the leave and licence and permission for the duration of this arrangement to enter on the said premises and to use the premises and outfit for the sole and exclusive purpose of

storing, selling and handling the products purchased by you from the



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corporation. Save as aforesaid you shall have no right, title or interest in the said premise or outfit. It is being specifically agreed and declared in particular that you shall not be deemed to be exclusive possession of the premises."

13. Thus it is crystal clear that there are two separate agreements one is the lease agreement between the land owners and the respondent Corporation and the another is for licence between the concerned proprietors of the neighbouring agencies for a temporary period. The difference between the terms lease and licence has been discussed in detail by the Hon'ble Apex Court in the following judgments:

(i) In Re Pradeep Oil Corporation Vs Municipal Corporation of Delhi reported in AIR 2011 SCC 1869, wherein the Hon'ble Apex Court has held as follows:

"12. It would be useful to examine at this stage the definition of "lease" and "license" as envisaged under Section 105 of the Transfer of Property Act, 1882 and section 52 of the Indian Easements Act, 1882 respectively.

Section 105 of the Transfer of Property Act, 1882 reads: -

"105. Lease Defined.--A lease of immovable property is a transfer of a right to enjoy such property, made for a certain time, express or implied, or in perpetuity, in consideration of a price paid or promised, or of money, a share of crops, service or any other thing of value, to be rendered periodically or on specified occasions to the transferor by the transferee, who accepts the transfer on such terms."

On the other hand, Section 52 of the Indian Easements Act, 1882 reads as:

"License, defined.--Where one person grants to another, or to a definite number of other persons, a right to do, or continue to do, in or upon the



immovable property of the grantor, something which would, in the absence of such right, be unlawful, and such right does not amount to an easement or an interest in the property, the right is called, a license."

13. A license may be created on deal or parole and it would be revocable. However, when it is accompanied with grant it becomes irrevocable. A mere license does not create interest in the property to which it relates. License may be personal or contractual. A licensee without the grant creates a right in the licensor to enter into a land and enjoy it. In Halsbury's Laws of England, 4th Edition, Vol. 27 at page 21 it is stated:

"license coupled with grant of interest: A license coupled with a grant of an interest in property is not revocable. Such a license is capable of assignment, and covenants may be made to run with it. A right to enter on land and enjoy a profit a prendre or other incorporeal hereditament is a license coupled with an interest and is irrevocable. Formerly it was necessary that the grant of the interest should be valid; thus, if the interest was an incorporeal hereditament, such as a right to make and use a watercourse, the grant was not valid unless under seal, and the license, unless so made, was therefore a mere license and was revocable but since 1873 the Court has been bound to give effect to equitable doctrines and it will restrain the revocation of a license coupled with a grant which should be, but is not, under seal."

14. Lease on the other hand, would amount to transfer of property. In. Associated Hotels of India Ltd. v. R.N.

Kapoor, [1960] 1 SCR 368, the following well established proposition were laid down by a Constitution Bench for ascertaining whether a transaction

amounts to a lease or a license: -



"27. There is a marked distinction between a lease and a license. Section 105 of the Transfer of Property Act defines a lease of immovable property as a transfer of a right to enjoy such property made for a certain time in consideration for a price paid or promised. Under Section 108 of the said Act, the lessee is entitled to be put in possession of the property. A lease is therefore a transfer of an interest in land. The interest transferred is called the leasehold interest. The Lesser parts with his right to enjoy the property during the term of the lease, and it follows from it that the lessee gets that right to the exclusion of the Lesser. Whereas Section 52 of the Indian Easement Act defines a license.

Under the aforesaid section, if a document gives only a right to use the property in a particular way or under certain terms while it remains in possession and control of the owner thereof, it will be a license. The legal possession, therefore, continues to be with the owner of the property, but the licensee is permitted to make use of the premises for a particular purpose. But for the permission his occupation would be unlawful. It does not create in his favor any estate or interest in the property. There is, therefore, clear distinction between the two concepts. The dividing line is dear through sometimes it becomes very thin or even blurred.

Alone time it was thought that the test of exclusive possession was infallible and if a person was given exclusive possession of a premises, it would conclusively establish that he was a lessee. But there was a change and the recent trend of judicial option is reflected in Errington v.

<https://www.mhc.tn.gov.in/judis> Errington 1952 (1) All ER 149, wherein Lord Denning reviewing the case



law on the subject summarises the result of his discussion thus at p. 155:

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"The result of all these cases is that, although a person who is let into exclusive possession is, *prima facie* to be considered to be tenant, nevertheless he will not be held to be so if the circumstances negative any intention to create a tenancy."

15. It is quite clear that the distinction between lease and license is marked by the last clause of Section 52 of the Easement Act as by reason of a license, no estate or interest in the property is created. In the case of Qudrat Ullah v. Municipal Board, Bareilly, (1974) 1 SCC 202 it was observed at p. 398 thus:

"... If an interest in immovable property, entitling the transferors to enjoyment is created, it is a lease; if permission to use land without right to exclusive possession is alone granted, a license is the legal result."

(ii) **Indian Oil Corporation Limited Vs.M/s.Shree Ganesh Petroleum Rajgurunagar** in reported in [2022] 4 SCC 463, wherein the Hon'ble Supreme Court has held as follows:

"9. There can be no dispute that the Lease Agreement and Dealership Agreement are distinct agreements independent of each other. This is evident from the terms and conditions of the respective agreements. While the lease agreement was for a fixed period of 29 years from 15th April 2005, after which the lease could be extended by mutual agreement on mutually agreed terms and conditions, the dealership agreement was for a period of 15 years from 15th November 2006 and to continue thereafter for successive periods of one year each, until determined by the



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other party.

10. Furthermore, the lease agreement specifically authorized the Appellant to sublet, underlet, assign or transfer possession of the said premises to any person. The lease agreement also reserved on the Appellant the right to appoint, remove, reappoint, change or substitute any dealers, agents, licensees or other authorized representatives of the Appellant on and in respect of the said premises, without the consent of the lessor, that is, the Respondent.

11. The dealership agreement was inherently terminable whereas the lease agreement as stated above was for a fixed period of 29 years from the date of execution thereof. Clause 3(b) of the lease agreement specifically provided that, on the lessee paying the rent as per the lease agreement and performing its conditions, it would be entitled to peaceably hold and enjoy the said premises without any interruption by the lessor/s or any person claiming through the lessor/s.

12. Distinctness of the dealership agreement from the lease agreement is also apparent from the obligation imposed by the dealership agreement on the Respondent to pay a licence fee for use of the said premises demised by the Respondent to the Appellant.

13. While the lease agreement provided for reference of disputes to the Managing Director of the Appellant for arbitration and if the Managing Director was unable or unwilling to act as a sole Arbitrator,



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then the sole arbitration of any other person designated or nominated by the Managing Director, the dealership agreement provided for reference of disputes to the sole arbitration of the Director (Marketing) of the Corporation who might either himself act as the Arbitrator or nominate some other officer of the Corporation to act as the Arbitrator.

14.The lease agreement expressly provided that disputes under the said agreement were not to be referred to any person other than the Managing Director of the Appellant, and if for any reason that was not possible, the matter was not to be referred to arbitration at all. On the other hand, as stated above, disputes under the dealership agreement were referable to the Director (Marketing) of the Appellant who was debarred from entertaining any reference of dispute under the lease agreement.

*15.The learned Additional Solicitor General, Ms. Madhavi Diwan, appearing on behalf of the Appellant referred to a judgment of this Court in *Rahul Yadav and Anr. v. Indian Oil Corporation Limited and Ors.* (2015) 9 SCC 447, where this Court clearly held that a dealership agreement by which the lessor of a land was appointed a dealer was distinct and independent from the lease agreement by which the land on which the outlet was installed, had been demised to the Appellant."*

14.The Gujarat High Court in re *Satpalsinh Harbhansla Arora Vs Indian Oil Corporation Limited* in R/Special Civil Application No.18258 of 2015 dated 20.04.2020, has observed as follows:

"18. As agreement executed between the petitioners and respondent oil



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company is a lease agreement as per provisions of section 2(e)(2) of the Act-1971 and as such it is public premises as land in question is a premises taken on lease by respondent oil company which is a public sector company. Therefore, the petitioner who is in occupation of such public premises without any authority for such occupation would be in unauthorised occupation as per section 2(g) of the Act, 1971."

15. Thus as per the decisions cited above, the parties are bound by the terms and conditions of the agreement. The petitioners themselves admitted that petitioners are the land owners and they are running the premises as retailers when there was no agreement permitting them to do so. The retail agreement was entered into between the proprietors of the neighbouring agencies and the respondent corporation. A perusal of the agreements reveal that the petitioners are not at all the proprietors of the concerned agencies. The respondent Corporation is a public sector corporation. If the petitioners are in occupation of the premises without any express agreement, they will be considered as unauthorised occupants as defined under Section 2 (g) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and the same is extracted hereunder:

(g) "unauthorised occupation", in relation to any public premises, means the occupation by any person of the public premises without authority for such occupation, and includes the continuance in occupation by any person of the



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public premises after the authority (whether by way of grant or any other mode of transfer) under which he was allowed to occupy the premises has expired or has been determined for any reason whatsoever."

16.It appears that the petitioners taking advantage of the temporary licence granted to the neighbouring agencies filed earlier writ petition, which was also dismissed by this Court in the year 2014 itself and by filing these present writ petitions in the year 2014 the petitioners managed to retain the outlets till this date, when the petitioners were directed to wind up the operation of the outlet as early as in the month of September 2014 itself. Since there is no express agreement for dealership between the petitioners and the respondent Corporation for dealership, the petitioners have no right to run the premises as dealers.

17.In the light of the above discussion and applying the ratio laid down by the Hon'ble Apex Court in the above cited judgments, these writ petitions are dismissed. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

**(*)Corrected as per the order of this Court dated. 16-10-2023 made in
WP(MD)Nos.15412 to 15416 and 15604 to 15613 of 2014.**

Sd/-

Assistant Registrar(CS-I)



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// True Copy //

/03/2024

Sub Assistant Registrar
(CS-I/II/III/IV)

(*)To be substituted to the order already despatched on 16-08-2023.

dsk

TO

1.THE SENIOR REGIONAL MANAGER,
HINDUSTAN PETROLEUM CORPORATION LIMITED,
TRICHY RETAIL REGIONAL OFFICE,
NO.90 II FLOOR, MDSR ENCLAVE,
BHARATHIDASAN ROAD,
CONTONMENT,
TRICY - 620 001.

2.THE SENIOR REGIONAL MANAGER,
HINDUSTAN PETROLEUM CORPORATION LIMITED,
MADURAI RETAIL REGIONAL OFFICE
NO.7, III FLOOR RAKESH TOWERS, BYEPASS ROAD
MADURAI-625 010.

+2 CC to M/s.M.SRIDHER, Advocate (SR-32847[F] dated 06/07/2023)

+16 CC to M/s.C.MAHADEVAN, Advocate (SR-32965 , 32822[F] dated
07/07/2023)

ORDER MADE IN
WP(MD)No.15412 to 15416
and
15604 to 15613 of 2014
06.07.2023

SI(16.08.2023) 31P/ 21C

SI(18.03.2024) 31P/ 21C

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