



W.P(MD)No.1247 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.08.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.1247 of 2015

and

M.P.(MD)Nos.1, 2, 3 and 4 of 2015

V.Srinivasan,
President,
Cooking Gas Distribution Welfare Association,
29/311, Main Road, Ettayapuram,
Tuticorin District. ... Petitioner

Vs.

- 1.Union of India,
Rep. by the Secretary,
Ministry of Petroleum and Natural Gas,
Shastri Bhavan, New Delhi.
- 2.The Chairman,
The Petroleum and Natural Gas Regulatory Board,
New Delhi.
- 3.The Executive Director,
Tamil Nadu State Office,
Indian Oil Corporation Limited,
No.1/39. Mahatma Gandhi Road,
Nungampakkam,
Chennai – 600 034.
4. The Regional LPG Manager,
Bharat Petroleum Corporation Limited,



W.P(MD)No.1247 of 2015

For Petitioner : No appearance

For Respondents : Mr.R.Vijayarajan,
Senior Panel Counsel for R1.
Mr.V.Karthikeyan,
For Mr.K.Anand K.Ganesan for R2
Mr.K.Muralieedharan for R3.
Mr.S.Nateshraj for R4.
Mr.M.Sridhar for R5.

ORDER

None appears for the writ petitioner. The matter was listed on 21.08.2023 and there was no representation for the petitioner on 21.08.2023 also.

2.I went through the contents of the affidavit filed in support of the writ petition. I also heard the learned standing counsel for the oil companies and also the learned standing counsel for Union of India and the second respondent.

3.The writ petitioner was appointed as LPG distributor by Indian Oil Corporation Limited in the year 2009. Feeling aggrieved by the



W.P(MD)No.1247 of 2015

impugned guidelines issued in the year 2014 which empowered the oil company to transfer the consumers from one distributor to another distributor, the present writ petition came to be filed.

4.The learned sanding counsel for the oil companies fairly bring it to my notice that when a circular *in pari materia* issued by Bharat Petroleum Corporation Limited on 13.03.2018 was put to challenge in W.P.No.8753 of 2018, the Hon'ble Division Bench of the Bombay High Court was pleased to allow the same. Challenging the decision of the Hon'ble Bombay High Court rendered on 30.09.2019, the Oil companies have filed SLP before the Hon'ble Apex Court and it is said to be pending and it is due to be listed for final hearing shortly. Be that as it may, the Hon'ble Division Bench of the Kerala High Court repelled the challenge. One such order dated 15.09.2022 was passed in W.P.(C)No.26014 of 2019. In paragraph No.2, the issue had been framed in the following terms:-

“2. The issue with respect to the transfer of consumers from one distributor to another was considered by this Court in several writ petitions filed by the distributors and had held that



W.P.(MD)No.1247 of 2015

WEB COPY

the Oil Marketing Corporations have got power and authority to port the consumers from one distributor to another.”

5.Paragraph No.35 of the said order reads as follows:-

“35. However, we are of the considered opinion that the transfer of a consumer from one distributor and the consequences arising therefrom to the distributor is already settled by this Court in the judgments referred to above and therefore, it has no locus standi or any right to get itself impleaded in the writ petition in question,opposing the reliefs sought for by a consumer to implement the guidelines and the orders issued by the Government of India and the Oil Marketing Corporations. Therefore, I.A. No. 1 of 2022 seeking impleadment will stand dismissed.”

6.When the petitioner filed W.P.(MD)No.1963 of 2018 for forbearing the oil company from compelling him to transfer his LPG consumers to any new / other distributors, the Hon'ble Division Bench vide order 13.03.2018 dismissed the same. Paragraph Nos.15, 16, 17 and 18 of the said order read as follows:-



“15. It is settled position of law that the policy decision can be challenged on the ground of arbitrariness or mala fide or oblique motive and the petitioner admittedly did not make any such allegations or averments in the affidavit filed in support of this writ petition. A perusal of the distributorship Clauses in the distributorship agreement, which has been extracted in the counter affidavit of the present writ petition would disclose that the second respondent Corporation is having every right to transfer the consumers from one agency to another agency and it was also pointed out that the writ petitioner himself was the beneficiary of the said benevolence offered by the second respondent and as such, it is not open to him to make a complaint as to the said policy decision.

16. The petitioner is aggrieved by the fact that he is developed infrastructure by spending huge money and on account of the transfer of consumers from his agency to some other agency, he is put to financial hardship, difficulty, and the remedy open to him is to invoke the arbitration Clause 37 of the Distributorship agreement dated 18.03.2009.

17. The petitioner fails to make out any tenable or legal ground to his challenge made to the impugned circular.

18. In the considered opinion of the Court, the impugned circular issued by the second respondent, is having the object of benefiting the consumers by accommodating there from one



W.P(MD)No.1247 of 2015

agency to another agency and it is also taken in terms of the agreement as well as the policy decision formulated by the Government and therefore, in the absence of any arbitrariness or mala fide, it cannot be put to challenge.”

Even in though the said writ petition, the impugned guidelines were not put to challenge, implicitly they have been upheld.

7.In view of the order passed by the Hon'ble Division Bench of this Court in the aforesaid writ petition and the decisions rendered by the Hon'ble Kerala High Court, I do not find any ground to interfere and the writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

22.08.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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W.P(MD)No.1247 of 2015

G.R.SWAMINATHAN, J.

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W.P(MD)No.1247 of 2015

22.08.2023