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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **14.09.2023**

CORAM:

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRVARTHY**

**W.A(MD)NOs.1546 to 1556 OF 2023
and
C.M.P(MD)Nos.
12079,12084,12096,12069,12072,12076,12065,12066,1207
8,12081 and 12082 of 2023**

M/s.Gothandapani Agencies(Ad hoc),
Dealer, Hindustan Petroleum Corporation Limited,
Trichy Region,Operated by Land Owner Mr.V.Prakash,
represented by Power Agent Mrs.P.Mahalakshmi,
No.367/1, Aladukkumulai Village,
Pattukkottai-Thanjavur Main Road,
Pattukkottai,
Thanjavur.

:Appellant/Writ Petitioner
in W.A(MD)No.1546 of 2023

.vs.

The Senior Regional Manager,
Hindustan Petroleum Corporation Limited,
Trichy Retail Regional Office,
No.90, II Floor, MSDR Enclave,
Bharathidasan Road,
Cantonment,
Trichy – 629 001.

: Respondent/Respondent in
W.A(MD)No.1546 of 2023

PRAYER in W.A(MD)No.1546 of 2023 Writ Appeal filed under
Clause 15 of the Letters Patent praying this Court to set aside the
order passed by this Court in W.P(MD)No.15412of 2014, dated
06.07.2023.



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For Appellant
in all W.As'

:Mr.Issac Mohanlal
for M/s.Issac Chambers

For Respondent

:Mr.M.Sridhar

COMMON JUDGMENT

[Judgment of the Court was made by **S.S.SUNDAR,J.**]

The Petitioners in a batch of Writ Petitions in W.P(MD)Nos. 15412 to 15416 of 2014 etc batch are before this Court challenging the order of the learned Single Judge dismissing the Writ Petitions filed by them for issuance of a Writ of Certiorarified Mandamus to quash the impugned orders and forbear the respondents therein from in any manner interfering with the operation of the retail outlets by the respective dealers in the place where they were permitted earlier on temporary basis.

2.The brief facts that are necessary for the disposal of the Writ Appeals are as follows:

The change of policy of the Government of India is to regulate the retail sales of petroleum and petroleum products under the Essential Commodities Act, 1955, bypermitting the Oil Companies to deal with the same. There were further periodical developments, which ultimately lead to the creation of concept of Company Owned



Company Operated (COCO) Outlets so as to enable the National Oil Companies to run and operate their own outlets, which were known as "Modern Retail Outlets". For the said purposes, lease agreements were entered into with various land owners and impending further change of policy, these land owners as well as in some cases, the dealers of adjacent retail outlets were temporarily permitted to run these outlets. When further change of policy decision was taken, these land owners/temporarily permitted persons challenged the same and ultimately, the matter reached the portals of the Honourable Supreme Court of India and by a judgment in a batch of cases in ***Mohammed Jamal .vs. Union of India reported in (2014) 1 SCC 201***, the Honourable Supreme Court of India ultimately decided against the land owners/other temporary contract holders that the doctrine of promissory estoppel or legitimate expectation cannot be made applicable to these cases. Pursuant to the said decision of the Honourable Supreme Court of India, the orders impugned in the Writ Petitions were passed terminating the contracts of the Writ Petitioners. Aggrieved by the order passed by the learned Single Judge, the present batch of Writ Petitions are filed.

3. The learned Single Judge holding that the



Petitioners/appellants have no vested right, held that they cannot as a matter of right cannot enjoy the running of retail outlets who were originally granted temporary license. It is admitted before this Court that the appellants were enjoying interim orders to the effect that the respondents will not interfere with their possession till such time oil companies appoint fresh dealers in the areas. It is to be noted that the retail outlets are functioning well as on date and the respondents did not dispute the requirement of these retail outlets in the areas in which they exist as on date.

4.The learned standing counsel appearing for the respondent/Oil Corporation submitted before this Court that they have no inclination to disturb the existing operation of the retail outlets, till such time, the dealers regularly appointed by the Oil Companies will commence their operation. It is also admitted before this Court that each one the appellants have given an undertaking before the learned Single Judge. The learned Standing Counsel for the respondent/Oil Company has also submitted that a fresh affidavit may also be directed to be submitted by the appellants to the Oil Corporation. The affidavit of undertaking given by the appellants before the learned Single Judge reads as follows:



''4.I submit that no new steps have been taken for allotment of the retail outlet dealership in favour of any other person. As and when the Government of India, Ministry of Petroleum and Natural Gas Commission and the respondents herein come out with a new policy for grant of dealership in respect of the existing retail outlets and on appointment of a new dealer for the Retail Outlet on the basis of such appointment in respect of the Retail Outlet at Avanam Kaikatti, Pudukottai District, I undertake to vacate and hand over the retail outlet to the Respondent herein within a period of four weeks from the date of such appointment of retail outlet dealership.''

The appellants, who have now operated the retail outlets is on the basis of the temporary license granted by the oil companies.

5.Recording the statement of the learned Standing Counsel appearing for the respondent and the affidavit of undertaking given by each one of the appellants, this Court is inclined to dispose of the above Writ Appeals in the following lines:

1.The order of the learned Single Judge in all the Writ petitions are set aside.



2.The respondent is directed to permit the appellants to operate the retail outlets run by them on the basis of the temporary license given to them till such time the respondent appoint regular dealers under any scheme and till such time the regular dealers commence their business.

3.Till issuance of letter of intent and till such time the regular dealers were appointed by the respondent, pursuant to the communication that will be issued by the respondent in each of the case, the appellants may be permitted to run the retail outlets on the basis of the temporary license.

4.Once the regular dealer is appointed on the communication issued by the respondent, the appellants shall vacate the premises within a period of four weeks from the date of such communication.

5.The appellants are also directed to give fresh affidavit of undertaking before the respondents, as it was given earlier before the learned Single Judge at the interlocutory stage within a period of two weeks from the date of receipt of a copy of this judgment.

6.With the above directions, all these Writ Appeals are



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allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

[S.S.S.R.,J.] [D.B.C.,J.]
14.09.2023

Index:Yes/No
Internet:Yes/No
NCC:Yes/No
vsn
To

The Senior Regional Manager,
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S.S.SUNDAR, J.
AND
D.BHARATHA CHAKRAVARTHY, J.

vsn

COMMON JUDGMENT MADE IN
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