

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.15905 of 2022

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M/s Raj Rajeshwari Fuels a Proprietorship firm having its office at Meerapur, Dholi Bazar, Pusa Road, District - Muzaffarpur through its proprietor Sri Santosh Kumar, S/o Late Harihar Nath Suman resident of Lakridhai, Chandwara, District - Muzaffarpur.

... .. Petitioner/s

Versus

1. M/s Indian Oil Corporation Limited through its Chairman Cum Managing Director having its registered office at Indian Oil Bhawan, G- 9, Ali Yavar Jung Marg, Bandra (East) Mumbai - 400051.
2. The Executive Director, Indian Oil Corporation Limited, Bihar State Office, 5th Floor, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chowk, Patna - 800001.
3. The General Manager (Retail Sale), Indian Oil Corporation Limited, Bihar State Office, 5th Floor, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chowk, Patna - 800001.
4. The Deputy General Manager (Retail Sales), Indian Oil Corporation Limited, Bihar State Office, 5th Floor, Lok Nayak Jai Prakash Bhawan, Dak Bunglow Chowk, Patna - 800001.
5. The Senior Divisional Retail Sales Manager (SDRSM), Indian Oil Corporation Limited, Muzaffarpur Divisional Office, Krishna Complex, Akharaghat Road, Muzaffarpur.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Neeraj Kumar Gupta, Adv.
For the Respondent/s : Mr.Sanat Kumar Mishra, Adv.

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CORAM: HONOURABLE MR. JUSTICE A. ABHISHEK REDDY
ORAL ORDER

9 27-08-2024 The brief facts of the present case are that the petitioner was allotted a retail outlet dealership but due to the NIL sales reported by the said retail outlet, the dealership of the petitioner was cancelled.

2. Learned counsel appearing on behalf of the petitioner has stated that due to the death of the father of the petitioner there was some disturbance in the family, therefore,



he could not operate the retail outlet. Learned counsel appearing on behalf of the petitioner has stated that thereafter the petitioner was making a representations to the authorities concerned for restoration of the dealership but there is no response from the authorities. Thereafter, the authorities themselves based on the instructions issued by the Government of India have come up with a one time opportunity for restoring the license in favour of the petitioner (Annexure 15). The said letter reads as follows:-

इंडियन ऑयल कॉर्पोरेशन लिमिटेड
मुजफ्फरपुर मंडल कार्यालय
कृष्णा कॉम्प्लेक्स, अखाड़ाघाट रोड
मुजफ्फरपुर- 842001

Indian Oil Corporation Limited
Muzaffarpur Divisional Office
Krishna Complex, Akharaghat Road
Muzaffarpur - 842 001
Phone: Office: 0621-2210111/2210112
Fax: 0621-2210213

Ref.: MDO/RS/Raj Rajeshwari

Date: 04.05.2017

To
M/s Raj Rajeshwari Fuels At-Merapur, Dholi
Dist-Muzaffarpur
Bihar
Kind Attn: Shri Santosh Kumar

Sub: Restoration of Terminated RO Dealership M/s Raj Rajeshwari
Fuels, At-Meerapur, Dholi, Dist-Muzaffarpur, Bihar

Dear Sir/Madam,

We are in receipt of your letter ref: Nil, Dated: 04.05.2017 on the subject. Further, This to bring to your notice that we had terminated the Dispensing Pump & Selling License Agreement/Dealership Agreement dated: 13.02.2006 of the subject dealership vide our letter ref. MDO/MDG dated: 28.02.2013.

Ministry of Petroleum & Natural Gas has now directed us to review the cases of Dealerships Terminated since 1.8.2005 on account of non-performance (Low/sales) and, if found eligible, provide one time opportunity for restoration of such dealerships. In view of the same, we are pleased to offer you this one time opportunity for restoration of your terminated dealership subject to the following:-



- a. The Proprietor/Partner meets the multiple dealership norm as applicable.
- b. Withdraw Court cases, if any, unconditionally against the Corporation by the dealership.
- c. Clear all pending dues payable to the Corporation.
- d. Security deposit is provided as per prevailing guidelines at the time of revival.

In view of the above, please submit your request justifying your case for considering restoration of the Terminated Dealership **M/s. Raj Rajeshwari Fuels** along with affidavit in the attached format.

Please note that this is a one time opportunity and if your request is not received within the stipulated time, as mentioned above, your RO dealership would not be considered for restoration and no extension of time limit would be provided in this regard.

Should you require any further clarification you may contact us.

Yours faithfully,

For Indian Oil Corporation Limited
Chief Divisional Retail Sale
Muzaffarpur-Divisional Office

Encl: Format of affidavit to be submitted by the dealer/partner(s)

Based on the above, the Corporation themselves have applied to the concerned authorities for explosive license and for issuance of non-encumbrance certificate. Though the petitioner has made several representations, the authorities did not restore the license of the petitioner, The petitioner left with no other option has filed the present writ petition seeking a direction to the authorities to restore the dealership in favour of the petitioner.

3. This court vide order dated 24.11.2022 has passed the following orders:-

“ To obtain instructions as to whether matter can be resolved amicably, for the petitioner undertakes to generate business up to the minimum level as per the dealership feasibility report.



As prayed for, list on 08.12.2022.”

4. Learned counsel appearing on behalf of the petitioner has drawn the attention to the court to the counter filed by the respondents more particularly para 15 which reads as under:-

“That in compliance of the Hon’ble Court’s direction dated 24.11.2022 the sales feasibility of the trading area was asked from the filed. From perusal of the feasibility report, it is apparent that the present minimum average potential of area is approximately MS(Petrol) 45 KL Per Month, HSD(Diesel) 62 KL Per Month.”

5. Learned counsel appearing on behalf of the petitioner has stated that the petitioner is willing to give an undertaking to the corporation stating that the petitioner will sell the minimum average potential of area of approximately MS(Petrol) 45 KL Per Month, HSD(Diesel) 62 KL Per Month and that the authorities may be directed to restore the dealership of the petitioner at the earliest.

6. Per contra, learned counsel appearing on behalf of the respondents has stated that the application of the petitioner for restoration was not considered as the retail outlet issued in favour of the petitioner was de-commissioned. Learned counsel has therefore prayed this Hon’ble Court to



dismiss the present writ petition.

7. Admittedly, in this case the authorities themselves have issued a one time opportunity wherein the authorities have taken decision to restore the retail outlet dealership in his favour where the NIL sales were existing and subsequently, the authorities themselves have applied to the concerned authorities for grant of explosive license. Even in the counter affidavit filed on behalf of the respondents have stated that pursuant to the order passed by this Court on 24.11.2022, the authorities have examined the matter and stated that in case the petitioner sells a minimum quantity of MS(Petrol) 45 KL Per Month, HSD(Diesel) 62 KL Per Month, then they may consider the restoration of the dealership.

8. Having regard to the above, the respondents authorities are directed to consider and restore the retail outlet dealership in favour of the petitioner. In case the license of the petitioner is restored, the authorities shall calculate the sales duly taking into consideration the average monthly sales over a period of one year before taking any action against the petitioner.

9. The petitioner shall file an undertaking before the authorities concerned within a period of two weeks from the



date of receipt of the copy of this order. On such undertaking being filed, the authorities concerned shall consider the application made by the petitioner and restore the retail outlet dealership within a period of eight weeks thereof.

10. With the above directions, the present writ petition stands disposed of.

(A. Abhishek Reddy , J)

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