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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2024

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**THE HONOURABLE DR.JUSTICE ANITA SUMANTH**

**WP.No.1844 of 2022**

**and**

**WMP.Nos.1989, 1990 and 1992 of 2022**

M/s.Mettur Taluk Lorry Owners Association,  
Door No.14/1-73,  
Salem Main Road,  
Pudusampalli,  
Mettur Dam – 3,  
Salem District,  
Rep. by its Secretary,  
S.Venkatachalam.

... Petitioner

Vs.

1.The Secretary,  
Ministry of Petroleum,  
Oil and Natural Gas,  
Government of India,  
New Delhi – 2.

2.The Chief Regional Manager,  
Hindustan Petroleum Corporation Limited,  
Salem Regional Office,  
GK Towers, Level – 4,  
395/2, First Main Road,  
New Fairlands,  
Salem District.

... Respondents



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**Prayer:** Writ Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned order in REF:SRO/NW/RET dated 29.01.2022 on the file of the 2<sup>nd</sup> respondent quash the same and direct the 2<sup>nd</sup> respondent to renew the agreement for M & H Contractor/Service Provider/COCO Operator for further period till the dealer is appointed.

For Petitioner : Mr.R.Ravi  
for Mr.V.Elangovan

For Respondent : No appearance (for R1)  
Mr.M.Vijayan (for R2)  
for M/s.King and Patridge

### **ORDER**

The petitioner is the *Mettur Taluk Lorry Owners Association* (in short ‘petitioner’). It has challenged an order passed on 29.01.2022 by the Chief Regional Manager, Hindustan Petroleum Corporation Limited (R2/HPCL) and sought a further direction to R2 to renew the agreement for ‘Maintenance and Handling’ (M&H) contractor services, till such time a regular dealer is appointed.

2.The *Mettur Truck Owners Welfare Association* (in short ‘welfare association’) is stated to own the land at S.No.161/1B2 (New S.No.161/1B2B), Pottaneri Village, Mettur Taluk (in short ‘land’/’land in question’). The welfare association had entered into an agreement with HPCL on 10.03.2020 for a period of 30 years for setting up of a petrol bunk. The petitioner was appointed as M & H



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contractor. The agreement was for a period of three years and admittedly expired on 04.01.2016.

3.The welfare association and the petitioner are two separate and distinct associations registered under the provisions of the Tamil Nadu Societies Registration Act, 1975. The petitioner was formed in 1997 with registration No.122/1997. The details of registration of the welfare association are unknown. There has been an attempt by the petitioner to integrate the identities of the two associations which, in the considered view of the Court is impermissible as there is no material available to support that plea.

4.The petitioner also refers to a request made by it for awarding the dealership of the bunk to the association, but HPCL would, for its part, maintain that the bunk was a company-owned, company-operated bunk (in short 'COCO outlet') and that, at present, there is no intention to change the status of the bunk by offering a dealership to any private party. The aforesaid confirmation would put paid to the submission of the petitioner that the arrangement as an M & H contractor was temporary as it is expected that the dealership would itself be awarded to it in time.

5.My attention is drawn to the clauses in the agreement for Maintenance and Handling where the HPCL states that the running of the bunk on COCO basis was only pending the selection and appointment of a regular dealer by the dealer



selection board. This question does not arise now as learned counsel for HPCL confirms that the present arrangement is permanent. In any event, the decision/discretion as to whether a bunk would be company owned or run by a private entity is a commercial decision that must be left to the company itself. Thus, there is nothing turns\_on this aspect of the matter.

6.Learned counsel for the petitioner has drawn attention to a decision in *C.S.Natarajan and another v. The Secretary, Ministry of Petroleum, Oil & Natural Gas, Government of India, New Delhi-2 and others*<sup>1</sup> by a Division Bench of this Court where the Bench has directed to continue the services of the appellant therein as M & H contractor, provided its services were found to be satisfactory. This decision was followed in the case of *P.Vijay Ganesh and others v. The Senior Regional Manager, Hindustan Petroleum Corporation Ltd., Coimbatore*<sup>2</sup>.

7.That matter was carried in appeal by HPCL in *The Senior Regional Manager, Hindustan Petroleum Corporation Limited, Coimbatore Regional Office, 18/3, Big Bazaar Street, Coimbatore – 641 001 v. P.Vijay Ganesh and others*<sup>3</sup> and by order dated 06.12.2017, the matter was closed recording the undertaking of HPCL that the respondents would be permitted to render services till such time regular dealers were appointed.

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1 Madras High Court - WA.Nos.309 and 377 of 2010 dated 25.08.2014

2 Madras High Court - W.P.Nos.23732 to 23735 of 2014 dated 19.02.2015

3 Madras High Court -WA.Nos.1043 to 1045 of 2015



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8. Reference is also made to an order passed in *Shanthi Rajasekar v. The Chief Divisional Retail Sales Manager, Indian Oil Corporation Limited, Chennai Divisional Office, No.500, Anna Salai, Teynampet, Chennai-600018*<sup>4</sup> following the diktat of the order in the case of *C.S.Natarajan*<sup>5</sup>

9.The above orders are prior to the formulation of policy/guidelines dated 31.03.2020 and 09.05.2022 for selection of service providers for COCOs and hence on and from those dates, it is the stipulation under those guidelines that would be applicable. The order in WP.No.17679 of 2014 though dated post issuance of guidelines, have not taken note of the same.

10.The present petitioner has suffered an order of termination of services on 04.01.2016 as against which, a writ petition was filed in *M/s.Mettur Taluk Lorry Owners Association v. The Secretary, Ministry of Petroleum, Oil and Natural Gas, Government of India, New Delhi and another*<sup>6</sup> and the petitioner was granted an interim stay on 22.01.2016.

11.The writ petition was finally disposed on 30.09.2021 granting liberty to the petitioner to make an application which may be considered by HPCL. The petitioner made an application which has come to be rejected by way of the present impugned

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4 Madras High Court - WP.No.17679 of 2014 dated 01.12.2021

5 Foot Note Supra 1

6 Madras High Court - WP.No.2119 of 2016



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order dated 29.01.2022. Upon receipt of the present impugned order, the petitioner has approached this Court and has obtained an interim protection.

12.Hence, though the contractual agreement qua the parties has ended in 2016, the petitioner has been hanging on simply by virtue of the present litigation and the interim orders granted by the Court. In fact, with the guidelines issued on 31.03.2020, there is little justification for the petitioner continuing in service. The procedure set out under the guidelines ought to have been triggered. The guidelines provide for an advertisement to be made calling for service providers.

13.Inter alia, the guidelines only permit individuals to apply and partnership firms, associations and non-individual applicants such as Government organisations/bodies, PSUs, cooperative societies, partnership firms are ineligible. Moreover, the aforesaid list is only illustrative and not exhaustive and hence, in light of the extant policy, the petitioner, being an association, would be debarred from participation. In such circumstances, the submission that the services rendered by the have been sterling, and that the remaining period of lease is only six years are also inconsequential.

14.The petitioner has a membership of 425, who own a thousand lorries amongst themselves. It is a mystery as to how an association with 425 members can be engaged to provide Maintenance and Handling services for a single petrol bunk.



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Such a modus operandi does not stand to a reason which is perhaps why the guidelines stipulate that only individuals must apply for this purpose.

15.In light of the discussion as aforesaid, the challenge to the impugned order is rejected. R2 states that it is only the pendency of the writ petition and the interim order that stands in the way of the advertisement being issued. Let this be done and the process of selection be completed within a period of two months from date of pronouncement of this order. Till such time, the petitioner will continue rendition of services.

16.Since an allegation is made by the petitioner to the effect that other similarly placed associations are also continuing in service indefinitely despite the issuance of the guidelines, there is a direction to R2 to look into the matter and do the needful in those cases also, to ensure uniformity in the matter. To make it clear, the guidelines will be applied uniformly, such that the tenure of three years is maintained and proper procedure as set out therein, is followed in the matter of selection of service providers.

17.This writ petition is dismissed. No costs. Connected miscellaneous petitions are closed.

**30.07.2024**

vs

Speaking order

Neutral citation:Yes



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To  
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Ministry of Petroleum,  
Oil and Natural Gas,  
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New Delhi – 2.
- 2.The Chief Regional Manager,  
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**DR.ANITA SUMANTH,J.**

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