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W.P.Nos.13562 & 14599 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.Nos.13562 & 14599 of 2024

and

W.M.P.Nos.14715, 14716 & 15876 of 2024

W.P.No.13562 of 2024

K.R.Trans Fuels Private Limited,
Having its registered office at:
No.20, Lawson's Road,
Cantonment,
Tiruchirapalli,
Tamil Nadu – 620 001,
Represented by
Authorized Signatory J.Venkatesh

... Petitioner

Vs.

1.The Chief Controller of Explosives,
Petroleum & Explosives Safety Organisation,
A-Block, Fifth Floor,
CGO Complex, Seminar Hills,
Nagpur – 440 006,
State of Maharashtra.

2.The Joint Chief Controller of Explosives,
Petroleum & Explosives Safety Organisation,
Second Floor, B-Block,
Shastri Bhavan,
26, Haddows Road,



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Nungambakkam,
Chennai – 600 006.

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3.The Commissioner of Police,
Office of the Commissioner of Police,
Sangagiri Main Road,
Linemedu, Salem City,
Salem – 636 006.

4.M/s.Chellies Enterprises,
No.103/3D, Koneri Karai,
Kandampatty Bye-Pass,
Salem – 636 005.

... Respondents

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N.Sridhar,
Proprietor M/s.Chellies Enterprises,
S No.103/3D, New TS No.13/11C,
Koneri Karai, Kandhampatty Bypass,
Kandhampatty, Salem – 636 005.

... Petitioner

Vs.

1.The Joint Chief Controller of Explosives,
Petroleum & Explosives Safety Organisation (PESO),
South Circle, Chennai,
A & D Wing, Block 1-8, 2nd Floor,
Shastri Bhavan, No.26, Haddows Road,
Nungambakkam, Chennai – 600 006.

2.The Chief Controller of Explosives,
Petroleum & Explosives Safety Organisation,
A-Block, 5th Floor, CGO Complex,
Seminary Hills, Nagpur – 440 006.

3.The Commissioner of Police,
Salem City Police Office,



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Sangagiri Main Road, Linemedu,
Gugai, Salem – 636 006.

4.M/s.K.R.Fuels,
Old No.2A, New No.20,
Lawsons Road, Cantonment,
Tiruchirappalli – 620 001.

... Respondents

Prayer in W.P.No.13562 of 2024 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent herein bearing order No.A/S/HO/TN/05/928 (S110950) dated 04.03.2024 in respect of old survey No.103/3D, New T.S.No.13/11C Koneri Karai, Kandampatty Bye-Pass, Kandampatty, Salem and quash the same and forbear t he respondent 1 to 3 herein from granting any further no objection certificate/licences pursuant to the aforesaid approval in favour of the fourth respondent herein.

Prayer in W.P.No.14599 of 2024 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 1st, 2nd and 3rd respondents to cancel the ALDS Licence No.S/HO/TN/05/42(S31732) standing on the name of the 4th respondent and issue fresh No Objection Certificate and Final Explosive Licence to the petitioner in accordance with law for operating the Auto LPG Dispensing Station at S No.103/3D, New TS No.13/11C, Koneri Karai, Kandhampatty Bypass, Kandhampatty, Salem – 636 005.

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For Petitioner : Mrs.AL.Ganthimathi



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Senior Counsel
for M/s.L.Palanimuthu

For Respondents : Mr.S.N.Parthasarathi
Senior Panel Counsel [R1 & R2]
Mr.L.Baskaran
Government Advocate (Crl.Side) [R3]
Mr.V.B.R.Menon [R4]

W.P.No.14599 of 2024

For Petitioner : Mr.V.B.R.Menon

For Respondents : Mr.Venkataswamy Babu
Senior Panel Counsel [R1 & R2]
Mr.L.Baskaran
Government Advocate (Crl.Side) [R3]
Mrs.AL.Ganthimathi
Senior Counsel
for M/s.L.Palanimuthu[R4]

COMMON ORDER

Since the issue involved in these writ petitions are interconnected, with the consent of the learned counsel appearing for the parties, these writ petitions were heard together and disposed of by this common order.

2. The petitioner in W.P.No.13562 of 2024 is a company registered under the Company Act carrying on business in distribution of Liquified Petroleum Gas through various distribution stations established



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through franchisees. The petitioner in W.P.No.14599 of 2024 had entered into a Partnership Agreement with his brother, N.Senthilnath, on 10.02.2006 by name M/s.Chellies Enterprises and thereafter, the Partnership firm had executed a Franchise Agreement with the petitioner in W.P.No.13562 of 2024 on 20.12.2006 to set up and operate a LPG Dispensing Station at the ALDS Site. Licence for the site in question name SF No.103/3D, Koneri Karai, Kamdampatty Bye-Pass, Kandampatty, Salem stands in the name of the company and stands duly renewed upto 30.09.2024. Though the licence is in favour of the petitioner in W.P.No.13562 of 2024, however, the land belongs to the petitioner in W.P.No.14599 of 2024. Whilseso, the petitioner in W.P.No.14599 of 2024 expressed the desire to have the franchise agreement terminated. Even if the said petitioner has expressed desire to terminate the franchise agreement, the license for storage of Liquified Petroleum Gas stands in the name of the petitioner in W.P.No.13562 of 2024 and the same has neither been surrendered nor cancelled. While matter stand thus, the petitioner in W.P.No.14599 of 2024 appears to have applied for a fresh licence for storage of Liquified Petroleum Gas in the very same site in its name and the same appears to have been



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processed by the 1st respondent in W.P.No.13562 of 2024 and on 04.03.2024, the said respondent has granted prior site approval for the site and called upon the petitioner in W.P.No.14599 of 2024 to submit further no objection certificate, licences for grant of the licence under the SMPV Rules, 2016. Challenging the said approval, W.P.No.13562 of 2024 has been filed. Coming to know about the approval, the petitioner in W.P.No.13562 of 2024 has submitted a letter dated 10.05.2024 to withdraw the said approval dated 04.03.2024. Thereafter, the 2nd respondent in W.P.No.14599 of 2024 issued a show cause notice dated 14.05.2024 to the petitioner in W.P.No.14599 of 2024, for which, this petitioner has submitted detailed reply on 27.05.2024 and 29.05.2024 and the matter is pending before the said respondent. Thereafter, the petitioner in W.P.No.14599 of 2024 has applied for NOC from the 3rd respondent which he is entitled to receive in accordance with Rule 47 of the SMPV(U) Rules, 2016 and on the basis of all the relevant documents submitted along with the application. The non-surrender of the old Licence by the petitioner in W.P.No.13562 of 2024 shall be irrelevant for consideration by the 3rd respondent while issuing the petitioner's (in W.P.No.14599 of 2024) partnership firm and this petitioner currently



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holds a valid registered lease deed of the suit in his favour.

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3. Learned Senior Counsel appearing for the petitioner in W.P.No.13562 of 2024 submitted that, though this petitioner started a new franchise adjacent to the 4th respondent's property independently, however, the grievance of the petitioner is that, when the licence is in favour of this petitioner in the very same land, the prior site approval granted by the 1st respondent in favour of the 4th respondent is not sustainable. Since the licence is going to expire on 30.09.2024, necessarily the petitioner has to file an application of renewal before the 1st respondent. Therefore, she submitted that, this court may issue a direction to the 1st respondent to hear the petitioner as well as the 4th respondent with regard to renewal of licence filed by the petitioner and grant of licence filed by the 4th respondent. After adjudication, in between the petitioner and the 4th respondent, the 1st respondent may be directed to pass appropriate orders, within a reasonable time. Accordingly, he prays for appropriate orders.

4. Learned counsel appearing for the petitioner in W.P.No.14599



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of 2024 submitted that, already this petitioner had terminated the franchise agreement with the 4th respondent in W.P.No.14599 of 2024 and once the franchise agreement is terminated, the said respondent has no right to continue the business in the petitioner's land. However, this court may issue a direction to the 1st respondent in W.P.No.14599 of 2024 to conduct enquiry in between the petitioner and the said respondent, within a time frame that may be fixed by this court.

5. Considering the limited request made by the respective learned counsel appearing for the petitioner in both the writ petitions, this court, without interfering with the impugned order, directs the 1st respondent W.P.No.14599 of 2024 to hear the petitioner in both the writ petitions with regard to renewal of licence application filed by the petitioner in W.P.No.13562 of 2024 and grant of fresh licence application filed by the petitioner in W.P.No.14599 of 2024 and pass appropriate orders, within a period of four (4) weeks from the date of receipt of a copy of this order.

6. With the above direction, these writ petitions are disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.



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10.09.2024

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes / No
sp

To

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CGO Complex, Seminar Hills,
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M.DHANDAPANI, J.

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