



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.02.2024

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.No.17078 of 2020

and

W.M.P.No.21145 of 2020

M/s. V.S.Indane Gramin Vitrak,
rep. by its Proprietor, S.Kavitha
1/599, Kottaiyur Village & Post,
Anchetty Taluk,Krishnagiri District - 635 102 ... Petitioner

vs.

1. The State Level Co-ordinator,
IOCL, BPCL & HPCL Tamilnadu & Puducherry (UT),
Indian Oil Corporation Ltd.,
Indian Oil Bhavan, Nungambakkam,
Chennai - 34.
2. The Deputy General Manager (LPG Operations),
Indian Oil Corporation Limited,
Marketing Division, IOC Bhavan,
No.134, Nungambakkam High Road,
Chennai - 600 034.
3. The Chief Area Manager,
Indian Oil Corporation Limited,
No.8,/1079, Avinashi Road,
Coimbatore - 641 018.
4. M/s. Sivan Bharath Gas,
rep. by its Proprietor, P.Senthil,
Sithandapuram, Anchetty,
Anchetty Taluk,
Krishnagiri District - 635 102. ... Respondents



Prayer in W.P : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondents 1 to 3 to transfer the existing customers in the area of operation within 15 Kms of radius of Kottaiyur by effecting transfer of LPG Customers from the 4th respondent gas agency so as to enable the petitioner to attain viability limit by effecting transfer of LPG customers from the 4th respondent so as to enable the petitioner to attain the viability limit in terms of the relevant policy and regulations within a time frame fixed by this Court.

For Petitioner : Mr.T.Sundaravadanam

For Respondents : Mr.R.Sivakumar for R1 to R3
Mr.M.Narayanaswamy for R4

ORDER

This Writ Petition has been filed for a direction to the respondents 1 to 3 to transfer the existing customers in the area of operation within 15 Kms of radius of Kottaiyur by effecting transfer of LPG Customers from the 4th respondent gas agency so as to enable the petitioner to attain viability limit by effecting transfer of LPG customers from the 4th respondent so as to enable the petitioner to attain the viability limit in terms of the relevant policy and regulations within a time frame fixed by this Court.

2. The petitioner was selected and appointed for distributorship pursuant to the notification issued by the Indian Oil Corporation for the area namely Kottaiyur for the existing distributor within Anchetty



Distributorship. As there was want of sufficient LPG customers, the running of distributorship has become unviable for the petitioner and the petitioner was incurring continuous loss in running the new distributorship. Therefore, the petitioner made representation to the Oil Corporation to take appropriate action for transfer of LPG connections in terms of the prevailing law to make the distributorship viable. Subsequently, vide circular dated 04.01.2018, a specific direction was issued by the Indian Oil Corporation Limited indicating the modalities as to how the customer transfer shall be effected from the existing distributor to the new distributor by market restructuring. In view of the same, the 2nd and 3rd respondents ought to have transferred the customers to the petitioner with default clause that on failure to effect customer transfer by 4th respondent, the same would be done by the 3rd respondent after 14.02.2018. So far the 3rd respondent has not effected customer transfer inspite of the petitioner's representation dated 18.09.2020. Hence, the present writ petition.

3. It is brought to the notice of this Court by the learned counsel for the respondent/Oil Corporation through his counter that challenging the legality of the circular dated 04.01.2018, W.P.No.8753 of 2018 was filed before the Bombay High Court and W.P.Nos.24844 of 2019 batch were



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filed before this Court. The Bombay High Court was pleased to allow the said writ petition and the circular dated 04.01.2019 was quashed. This Court considering the judgment of the Bombay High Court, passed an interim order of injunction restraining the respondent Corporation from transferring the existing customers. Challenging the order passed by the Bombay High Court dated 30.09.2019 made in W.P.No.8753 of 2018, the respondent Oil Corporation filed S.L.P.Diary No.2960 of 2020 before the Hon'ble Supreme Court and the same is pending.

4. A copy of the order dated 05.09.2023 passed by the Hon'ble Supreme Court was produced before this Court to show that the order passed by the Bombay High Court dated 30.09.2019 in W.P.No.8753 of 2018 is pending before the Hon'ble Supreme Court.

5. Since the issue involved in this writ petition is pending before the Hon'ble Supreme Court, the present Writ Petition stands dismissed, with liberty to the petitioner to file a fresh writ petition, if any order is passed in his favour by the Hon'ble Supreme Court. No costs.

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Index :yes/No
Speaking /Non speaking order
vsi



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To

WEB COPY

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