



W.P(MD)No.21144 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.03.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.21144 of 2022

Thangammal

... Petitioner

Vs.

1.The Indian Oil Corporation Ltd.,
Rep. by its Area Manager,
LPG Distribution, Indane Area Office,
No.2, Race Course Road,
Chinna Chokkikulam,
Madurai – 2.

2.C.Lakshmi Priya

... Respondents

*(R2 is impleaded vide order dated 16.11.2022 in
W.M.P.(MD)No.17407 of 2022 in W.P.(MD)No.21144
of 2022 by VBSJ).*

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent to expeditious action to promote and place the petitioner in her original seniority as per law by considering the petitioner's representation dated 26.08.2022 within the stipulated time.

For Petitioner : Mr.N.Karthik Kanna

For Respondents : Mr.K.Muraleedharan,
Standing Counsel for R1.
No appearance for R2.



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ORDER

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Heard the learned counsel for the petitioner and the learned standing counsel for the first respondent.

2.IOCL had appointed one Senthil Kumar as their LPG distributor for Pothumbu Village. Senthil Kumar passed away on 07.07.2022. As per guidelines of IOCL, the distributorship will be in the joint names of husband and wife. Senthil Kumar had nominated his minor children. As per guidelines of IOCL, the nominees will be entitled preference in the re-constituted firm. Unfortunately, the mother and the minor children had not come forward to carry on the distributorship. Clauses 3.17.5 and 3.17.11 of the Guidelines for Reconstitution of LPG Distributorship, 2022 read as follows:-

“3.17.5 Nominated person(s)/Legal Heir(s) not responding:

In the event of death or incapacitation resulting in total and permanent disability (which will disable the proprietor/ partner to work or follow any occupation or profession) of the Proprietor or Partner(s) of the distributorship firm, if the person(s) nominated by the deceased/incapacitated Proprietor/Partner(s) do not express his/her/their willingness to join the distributorship, a specific time period of 6 (six) months from the date the OMC receives intimation



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of the death/such incapacitation of Proprietor/partner(s) shall be given to them for taking decision. Thereafter it will be construed that the nominated person(s) is/are unwilling to join the distributorship, and then the firm can be reconstituted with the other legal heirs or the family members of the deceased/incapacitated proprietor/partner(s). If there are no other legal heir(s) or the known legal heirs and also the family members are also not responding, then such partnership firm shall be reconstituted with the surviving partner(s); in case of proprietorship, the distributorship shall be terminated. The sequence of preference to be followed for induction of new proprietor/partner should be (i) the nominated person(s); (ii) the legal heirs; (iii) the family members(s).

3.17.11 *All proposal for reconstitution of distributorship shall be disposed of by the concerned OMC in a time bound manner preferably within 75 days from the date of receipt of complete proposal.”*

3. Even though the wife of Senthil Kumar had been shown as second respondent and notice has been served on her and her name is also printed in the cause list, she has not chosen to enter appearance. I, therefore, conclude that the wife of Senthil Kumar is not ready or willing to carry on the distributorship. Therefore, the firm comprising Senthil Kumar and Lakshmi Priya which was originally constituted for distributorship will have to be



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dissolved. Thangammal, the mother of Sentil Kumar will have to be made as the sole distributor. But Thangammal will have to necessarily act as a guardian for her minor grandchildren namely, Vaibhav Paul and Vishagan Paul. In other words, the benefit of such distributorship will have to enure in their favour. The first respondent is directed to re-constitute the distributorship and issue proceedings on the lines mentioned above within a period of four weeks from the date of receipt of a copy of this order.

4.This writ petition is allowed on these terms. No costs.

18.03.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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