***IN THE HIGH COURT OF JUDICATURE AT BOMBAY***
***ORDINARY ORIGINAL CIVIL JURISDICTION***

***WRIT PETITION NO.2298 OF 2022***

Indian Oil Corporation Ltd.,
A Company incorporated under
the provisions of the Companies
Act, 1956 and having its registered
Office at Indian Oil Bhavan, G-9,
Ali Yavar Jung Marg, Bandra (East),
Mumbai – 400 051. And Regional office
at 1st & 4th Floor, 254-C, Sarjan Plaza,
100, Dr. Annie Besant Road, Worli,
Mumbai – 400 053. …Petitioner

Versus

1. Union of India through the
Ministry of Petroleum

2. Dispute Resolution Panel
formed under the Marketing Discipline
Guidelines, 2012 formulated
Ministry of Petroleum

3. Bhawani Auto Traders
Opposite IIT Main Gate,
Powai, Mumbai – 400076.

4. Prashant G. Sharma
Age – adult
S/o Late Shri Gopal C. Sharma
"C" Wing, 19th Floor,
Lake Castle, Hiranandani Gardens,
Powai, Mumbai – 400076.

5. Dixant G. Sharma
Age – adult
S/o. Late Shri Gopal C. Sharma
"C" Wing, 19th Floor,
Lake Castle, Hiranandani Gardens,
Powai, Mumbai – 400076. ...Respondents

***WITH***
***WRIT PETITION NO.1404 OF 2025***

1. Bhawani Auto Traders
A registered Partnership firm
Dealers : Indian Oil Corporation Ltd.
Opp. I.I.T. Main Gate, Powai,
Mumbai – 400 076.

2. Prashant Gopal Sharma
Indian Adult,
Partner of M/s. Bhawani Auto Traders
"C" Wing, 19th Floor, Lake Castle,
Hiranandani Gardens, Powai,
Mumbai – 400 076.

3. Dixant Gopal Sharma
Indian Adult,
Partner of M/s. Bhawani Auto Traders
"C" Wing, 19th Floor, Lake Castle,
Hiranandani Gardens, Powai,
Mumbai – 400 076. ...Petitioners

Versus

Indian Oil Corporation Ltd.,
A Government Company incorporated
Under the Companies Act, having
its registered office at
Indian Oil Bhavan, G-9, Ali Yavar Jung Marg,
Bandra (East),
Mumbai – 400 051. ...Respondents

Mr. Chirag Modi with Mr. Shrikant Seegarla and Mr. Manav Chetwani i/b RMG Law Associates, for the Petitioner in WP/2298/2022 and for the Respondent in WP/1404/2025.

Ms. Naveena Kumari with Ms. Rajeshwari S. for the Union of India in WP/2298/2022.

Mr. Sanjeev Gorwadkar, Senior Advocate with Mr. Jaydeep Thakkar for the Respondent Nos.3 to 5 in WP/2298/2022 and for the Petitioners in WP/1404/2025.

***CORAM: BHARATI DANGRE & MANJUSHA DESHPANDE, JJ.***

***DATE : 16th FEBRUARY 2026.***

***JUDGMENT (Per Manjusha Deshpande, J.) :***

1. Rule. Rule is made returnable forthwith with the consent of the parties and is taken up for final disposal. Learned advocate appearing for the respondents waive notice on behalf of the respective

respondents.

2. The facts and the order impugned in both the writ petitions are arising out of same set of facts, hence, they are heard and decided together by way of this common Judgment. However for the sake of convenience, the parties are being referred to as per the title cause of Writ Petition No.2298 of 2022 filed by the Petitioner-Indian Oil Corporation Limited ('IOC'). The petitioner–IOC, challenges the order passed by the Dispute Resolution Panel, New Delhi dated 19th December 2018, thereby allowing the Appeal filed by the respondent Nos.3 to 5, directing the petitioner to continue the interim arrangement for continuance of supply of products by the Corporation, till the Dealership Agreement is entered between the respondent Nos.3 to 5 and the petitioner-IOC. Further directing to inform the respondent Nos.3 to 5, about the documents, required to be submitted by them, in the format as required for execution of Dealership Agreement within a period of two weeks from the date of the order, also directing to summon respondent Nos.3 to 5 for fixing

particular date and time for the execution of the Dealership Agreement.

3. The petitioner – IOC is challenging the said order passed by the Dispute Resolution Panel in Appeal No. DRP/IOC/RET/0007 of 2018 dated 19th February 2018. On the other hand the petitioners in Writ Petition No.1404 of 2025 are seeking the implementation of the order passed in the aforesaid Appeal with a further prayer seeking direction to the IOC that, it shall provide all benefits and subsidies with effect from 2018, that are admissible to other MS(Petrol) and HSD (Diesel) dealer/retail outlets of the respondents as per Circulars/Policies issued by the Ministry of Petroleum and Natural Gas and to refund an amount of Rs.2,50,000/- to the petitioners being 50% of the Appeal fees paid by the petitioners for referring the Appeal to the Dispute Resolution Panel ('DRP').

4. Mr. Chirag Modi, learned advocate for the petitioner-IOC, submitted that, the father of respondent Nos.4 and 5 was

granted dealership license by the petitioner vide Dealership Agreement, dated 22nd February 1974 for the site at Adi Shankaracharya Road, Opposite IIT Main Gate, Powai, Mumbai. This agreement was executed between the Indian Oil Corporation and Mr. Gopal Sharma in capacity of sole proprietor of M/s. Bhawani Auto Traders i.e. respondent No.3. Mr. Gopal Sharma expired on 24th January 1998. According to the respondent Nos.4 and 5, who are the sons of late Gopal Sharma, the proprietary concern was reconstituted as partnership firm and they have been carrying on the dealership business as partners. There are 17 Dispensing Units ('DU') installed by the IOC on the site of the respondent No.3. There were no complaints whatsoever against the respondent Nos.3 to 5 till 29th July 2013. When an inspection was conducted at the site of respondent No.3 by the officers of IOC, along with the Original Equipment Manufacturer (OEM) representatives, an inspection report was prepared which was handed over to the respondent Nos. 3 to 5. The inspection report stated that, there was no fault found in all the Dispensing Units; seals were found intact; and the calibration was found valid; except one MS

Dispensing Unit being Model No.990C of MIDCO Dual, MS DU bearing serial 8F 791 A/B, the first 3 deliveries of each nozzle number one and two respectively were found short by 500 ml and 330 ml in 5 liter check. The electric power of DU was switched off and again switched on, when the delivery was checked again it was found to be accurate from both the nozzles. The defective DU was sealed and the sale from the aforesaid DU was suspended.

Having found defect in the DU, as per the inspection report, a show-cause-notice was issued to the respondent Nos.3 to 5 calling upon them to explain about shortage in delivery vide letter dated 29th July 2013, which was responded by, them in their reply dated 5th August 2013. Thereafter a show-cause-notice dated 29th October 2013, was issued by the Chief Divisional Retail Sales Manager, to the respondent Nos.3 to 5 informing that the Dealership Agreement dated 22nd February 1974 was executed between Mr. Gopal Sharma, who was the sole proprietor of M/s. Bhawani Auto Traders and IOC, upon his death the respondent Nos.3 to 5 were allowed to operate the retail outlet on temporary basis, pending their request of reconstitution. However, a fresh Dealership Agreement was never executed by the IOC with the respondent Nos.3 to 5. Therefore, the IOC could terminate the Dealership Agreement between their father and the IOC.

In the interregnum the legal metrology officers Kurla – III Division were called upon to break open the seal of the Dispensing Unit (DU). On 14th August 2013 the Legal Metrology Inspector, opened the seal of the DU in the presence of representative of respondent Nos.3 to 5 and the officers of the petitioner, the critical part i.e. the pulsar cards and control cards of the DU, were removed and sent for OEM testing in its laboratory i.e. the MIDCO.

According to the petitioner, though the respondent Nos.3 to 5 were intimated that testing will be done in their presence on 23rd August 2013, but they have chosen to remain absent. The testing was ultimately done on 23rd August 2013 by MIDCO, after the sealed box was received by MIDCO, in the presence of the officers of petitioner as well as the representatives of respondent Nos.3 to 5. The MIDCO issued the test report on 31st August 2013, holding the Control Card

Nos.1 and 2 have passed the standard testing procedure and there was no deviation from the standard performance. However, in case of pulsar 2, the trap of censors was cut and thereafter reworked with wire, which means the pulsar 2 did not meet the testing norms, and failed in the standard testing procedure.

Based on that report a show-cause-notice dated 29th October 2013, was issued for termination of Dealership Agreement charging respondent Nos.3 to 5, for tampering with critical equipment and for not reconstituting the firm. The show-cause-notice was responded by filing a reply, a personal hearing was given to the respondent Nos.3 to 5, and thereafter Dealership Agreement has been terminated by the Petitioner-IOC, on the ground that there is a critical irregularity committed by the respondent Nos.3 to 5 by violating clauses 1.5(v), 5.1.4 and 8.2 of the Marketing Discipline Guidelines ('MDG'), vide its communication dated 12th May 2014.

5. As per the then existing policy the respondent Nos.3 to 5 filed an Appeal before the Executive Director, of the IOC, who was an

Appellate Authority, under Clause 8.9 of MDG. As per the policy prevalent then, the sales and supply of the retail outlet of the respondent Nos.3 to 5 was continued pending the Appeal.

6. It is submitted that in the meanwhile, the respondent Nos.3 to 5 had taken out an application for retesting of the equipment which came to be rejected by order dated 31st December 2014, which was a subject matter of challenge before in this Court in Writ Petition No.1558 of 2015. This Court vide order dated 10th July 2018 disposed of the writ petition with a direction to the Appellate Authority to rehear the Appeal on its own merits, without considering the order of rejection of retesting the equipment. A liberty was given to the Appellate Authority, in case the authority cannot come to an appropriate conclusion without retesting, the Authority will be at liberty to order the retesting and reverification of the equipment with a further direction to decide the matter expeditiously and not later than six months from the date of the first hearing.

7. It is submitted that though such order came to be passed the petitioner had already replaced the DU with another DU and the tampered part was not in the said unit. In the meanwhile there was a change in the guidelines and all the pending Appeals challenging the termination of Agreement were transferred to a new Appellate Authority i.e the Dispute Resolution Panel constituted for that purpose. During the course of the proceedings the defense of the petitioner before the Appellate Authority, was that the equipment could not be tested, because the tampered part was not traceable.

8. The pending Appeal before the Appellate Authority was disposed vide order dated 19$^{th}$ December 2018, allowing the Appeal filed by the respondent Nos.3 to 5. While allowing the Appeal directions are given for reconstitution of the firm and the termination order dated 12$^{th}$ May 2014, has also been set aside.

9. The learned advocate for the petitioner submits that, the impugned order is passed without giving cogent reasons which is a

non-speaking order. According to the learned advocate, the Appeal filed by the respondent Nos.3 to 5 was not maintainable, since the respondent Nos.3 to 5 were not the dealers of the IOC, due to their failure to reconstitute the firm. Thus the respondent Nos.3 to 5 had no locus or authority to file the Appeal, which was totally lost sight, by the Appellate Authority. The impugned order has failed to appreciate the law laid down by the Hon'ble Apex Court in the case of ***Indian Oil Corporation Limited v/s Amritsar Gas Service and Others***[1]**.**

10. It is submitted that the Appellate Authority had not taken into consideration the MIDCO Report dated 31st August 2013,which clearly indicated that, there was reworking of the wires and the pulsar was not as per the MIDCO standard wiring.

The petitioner had been denied an opportunity to meet the additional ground pleaded by the respondent Nos.3 to 5, thus violating the principles of natural justice. A serious irregularity, which was disclosed from the report of MIDCO, has been totally ignored by the Appellate Authority. The order impugned passed by the Dispute

1 (1991) 1 SCC 533

Resolution Panel, is passed without adjudicating the foundational issue that the respondent Nos.3 to 5 were never legally recognised dealers, and also without considering the scientific evidence of tampering the DU established by the OEM Test Report. Thus, the impugned order is ex-facie without jurisdiction and travels beyond the power vested in DRP, therefore deserves to be quashed and set aside.

11. Per Contra the learned senior advocate Mr. Gorwadkar, appearing for the respondent Nos.3 to 5, while resisting the submissions of the learned advocate for the petitioner, would submit that his first and foremost objection is to the maintainability of the writ petition after a delay of more than 3 years. According to him, due to delay in challenging the impugned order, the rights accrued in their favour stand crystallized, belated interference in the same, will amount to unsettling their settled position, which cannot be permitted. It is submitted that after the passing of the order by the DRP, the respondents have approached the petitioner seeking compliance of the judgment and order dated 19th December 2018. However, the

petitioner herein has failed to comply with the decision rendered by the DRP. As a result of failure of compliance of the said order the respondent Nos.3 to 5 filed a Writ Petition (L) No.1502 of 2019, seeking compliance of the order dated 19th December 2018. Unfortunately it was rejected on account of failure to remove office objections.

Around the same time when the petitioner got the knowledge of the writ petition filed by the respondent Nos.3 to 5, they have filed the present writ petition belatedly, without any explanation for the delay and latches, which also suffers from suppression. It is submitted that the petitioner herein has projected, distorted and manipulated facts before this Court. The learned senior advocate would submits that, atleast 10 deliveries ought to have been checked before arriving at the conclusion that, there was shortage in the DU. It is his contention that all the DUs were checked, duly stamped and calibrated by the Weights and Measures Department on 28th May 2013, the seals were intact and no external fitting was found. Therefore, the respondent Nos.3 to 5 were permitted to continue the sales from the DUs.

The respondent Nos.3 to 5, had sought permission to open the seal and carry out re-stamping after the repair had been carried out on 13th August 2013. Accordingly permission was granted and on 14th August 2013, the officer of the petitioner visited the site and opened the DU in question, took away two pulsar cards and two controllers from the nozzles. The parts which were taken away were not shown to the representative of respondent Nos.3 to 5; and were taken away without the permission from the Legal Metrology Department.

The respondent Nos.3 to 5 were thereafter, directed to remain present during testing vide communication dated 14th August 2013, pursuant to which when the respondents actually remained present, for the testing on 23rd August 2013, no testing was done in their presence on the assigned date. After a few days, a show-cause-notice came to be issued on 29th October 2013, along with the test report dated 31st August 2013. The show-cause-notice primarily contained two grounds, first regarding the irregularity found in the report of the testing, alleging about the additional unauthorised fitting found in the DU, which was not part of the standard OEM equipment, which exposed the card to manipulation. Hence, allegations of tampering with the DU was made in the show-cause-notice.

12. The other issue raised in the show-cause-notice was about the failure of respondent Nos.3 to 5 to produce the documents regarding reconstitution of the respondent No.3, firm after death of its sole proprietor. Further informing that in principle approval has been granted for reconstitution of the respondent Nos.3 to 5 on 24.07.1998, which require certain documents to be submitted for execution of the Dealership Agreement.

13. The learned senior advocate for the respondent Nos.3 to 5 raise following grounds:

The inspection was not carried out as per the MDG Guidelines, it was carried out behind their back; the DU which was sealed and non-functional, was dismantled and removed from its location at the outlet, during the pendency of the Appeal filed by the respondents, causing serious prejudice to their rights, since they are deprived of their valuable right to establish that, they have not indulged in tampering; the parts of the DUs have not been tested in the presence of their representatives. On 14th August 2014, the delivery from the DU was not taken and checked for accuracy in presence of the representative of respondent Nos.3 to 5, as a result of which there is violation of principles of natural justice. It is thus submitted, that the DRP has rightly decided the matter on its own merits, by allowing the Appeal in in their favour, giving directions to reconstitute the Dealership Agreement and continue with the interim arrangement for continuous supply of the product as per interim arraignment till the Dealership Agreement is entered between the parties. There is no error committed by the Appellate Authority, hence the order of the Appellate Authority requires to be complied with.

14. We have heard the respective advocate and we have also perused the contents of both the writ petitions, with the assistance of the advocates. From the facts of the writ petitions before us, it

emerges that pursuant to the inspection carried out by the officers of the IOC on 29th July 2013, short supply was detected in one of the DUs out of the 17 units of the respondent No.3 outlet. In DU bearing No.8F791 A/B was found short by 500 ml and 330 ml respectively in the first three deliveries from nozzle No.1 and 2 respectively. After switching off and on the DU, the delivery from that MS, was found to deliver in accurate measures. However, in the earlier testing there was shortage of 500 ml and 300 ml, hence it was thought fit, to send the DU for testing to the MIDCO laboratory. Although the respondent No.3 was intimated vide communication dated 22nd August 2013, that the electronic part collected and sealed from their outlet was required to be tested in their presence through MIDCO laboratory. Record discloses that, when the respondent No.3 i.e. dealer was personally present, he was merely informed that after conducting the test they will receive the Report. Thus the testing was not conducted in their presence, which has resulted in grave irregularity in the procedure, causing prejudice to the respondent Nos.3 to 5.

15. On perusal of the Report submitted by the MIDCO laboratory, we do not find any reference about presence of respondent Nos.3 to 5 or their representative during the testing. Clause 2.5(G) of the MDG makes it necessary for the dealer, officer, and the representative of the company to remain present during the testing. The documents placed on record do not disclose that, the petitioner has adhered to the procedure while testing of disputed pulsar Card No.2, which is not only in breach of the Guidelines but also amounts to violation of the principles of natural justice. Pertinently, although the representative of respondent No.3-M/s. Bhawani Auto Traders was present, for the testing, the authorised signatory of MIDCO Laboratory has informed him that they have received the sealed box and they would revert back to the petitioner-Corporation after due testing.

16. A report which is made basis for imposing penalty of termination of Dealership Agreement, is prepared in complete violation of the prescribed procedure and, in breach of the principles

of natural justice. Resultantly, the impugned order becomes untenable and is required to be quashed and set aside. We concur with the view already been taken by the DRP on this aspect, after giving due consideration to the regulations as well as the documents placed on record.

17. The other objection raised by respondent Nos.3 to 5 is about the loss of opportunity of reverification and retesting of the DU as per their application dated 14th June 2014, due to the dismantling and removal of the DU in question on 18th April 2017, during the pendency of the Appeal which has deprived the respondent Nos.3 to 5 of their valuable right of reverification. The DRP in its order has observed that, the action of replacing the DU during the pendency of Appeal amounts to condoning the alleged irregularity found in its inspection dated 29th July 2013. We are in complete agreement with this view taken by the DRP, since the petitioner has not retained the parts of the dismantled unit, in fact it is their categorical stand that, though the retesting has been ordered by this Court vide order

dated 10th July 2018, it was not possible since faulty DU was not available with the petitioner. This opportunity of the respondent Nos.3 to 5 to prove that they have not committed any irregularity, has been lost due to the conduct of the petitioner.

18. So far as the directions issued by the DRP to take steps for reconstitution of the dealership is concerned, it is not in dispute that after death of the sole proprietor Mr. Gopal Sharma the respondent Nos.4 and 5 have been running the outlet and selling products of the petitioner through their retail outlet on temporary basis pending their request for reconstitution. Reliance is placed on communication 10th August 1998, 26th November 2013 and 15th June 1999 to demonstrate that they have been pursuing the reconstitution of their Dealership Agreement as required by the petitioner and they have already submitted document in the appropriate format on a stamp paper attested by Notary Public. However, the petitioner has failed to execute the Dealership Agreement on the pretext that the documents were not in the prescribed format, which was intimated vide

communication dated 31st May 1999. It appears that though the respondent Nos.3 to 5 have accordingly submitted the necessary documents, it did not meet the approval of the petitioner. This defect can certainly be rectified by respondent Nos.3 to 5, since they have already shown their willingness to make necessary compliances as per the norms. During the pendency of the present proceeding and even prior thereto the respondent Nos.3 to 5 have been operating on temporary basis pending their request of reconstitution, admittedly there is no other complaint pending against them. Thus we do not find any error or arbitrariness in the directions issued by the Dispute Resolution Panel.

On the contrary, we find that there is blatant violation of the procedure prescribed in the Marketing Discipline Guidelines issued by the petitioner, as well as on account of failure to adhere to the principles of natural justice, the order of discontinuation of Dealership Agreement becomes vulnerable, which has been rightly set aside by the Dispute Resolution Panel. Hence, we find no ground is made out to cause interference in the impugned order, as a result Writ Petition

No.2298 of 2022 fails and the Writ Petition No. 1404 of 2025 stands allowed, accordingly the IOC is directed to take steps, for compliance with the directions issued by the DRP and complete the procedure for reconstitution of the Dealership Agreement of the petitioners in Writ Petition No. 1404 of 2025, within a period of two months. Needless to state that the petitioners shall be entitled to a refund of 50% of the Appeal Fee deposited by them as per the prescribed procedure.

With the aforesaid directions, both the Writ Petitions stand disposed of. Rule is made absolute on the aforesaid terms.

***MANJUSHA DESHPANDE, J.*** ***BHARATI DANGRE, J.***