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MP Nos.1477 to 1493 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13-12-2021

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP Nos.1477 to 1493 of 2009

And

MP Nos.1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1, 1 and 1 of 2009

V.Palaniswamy	..	Petitioner in WP 1477/2009
V.Subramaniam	..	Petitioner in WP 1478/2009
K.Velangiri	..	Petitioner in WP 1479/2009
T.Raja	..	Petitioner in WP 1480/2009
K.Mohideen Abdul Khader	..	Petitioner in WP 1481/2009
K.P.Chinnappan	..	Petitioner in WP 1482/2009
V.Marimuthu	..	Petitioner in WP 1483/2009
K.V.Kumaraswamy	..	Petitioner in WP 1484/2009
K.Perumal	..	Petitioner in WP 1485/2009
S.Arjunan	..	Petitioner in WP 1486/2009
Smt.Missiammal	..	Petitioner in WP 1487/2009
P.Ravichandran	..	Petitioner in WP 1488/2009
K.P.Muthuswamy	..	Petitioner in WP 1489/2009
P.Shanmugam	..	Petitioner in WP 1490/2009
Kaveri	..	Petitioner in WP 1491/2009
E.K.Palaniswamy	..	Petitioner in WP 1492/2009
K.Rengaswamy	..	Petitioner in WP 1493/2009

vs.



WP Nos.1477 to 1483 of 2005

The Commissioner of Civil Supplies and
Consumer Protection,
Chepauk,
Chennai – 600 005.

.. R-1 in all WPs

The District Supply Officer,
Erode.

.. R-2 in all WPs

The Special Tahsildar,
Essential Commodities,
Erode.

.. R-3 in all WPs

Writ Petitions are filed under Article 226 of the Constitution of India, praying for the issuance of Writs of Mandamus, directing the respondents to attach 500 Family Cards to the petitioners in terms of the Common Orders in Na.Ka.1414/2006/C1 of the third respondent dated 14.06.2006 made in his proceedings and continue to supply Kerosene to the petitioners as hitherto before and consequently forbear the respondents either from altering the number of Family Cards attached to them or reduce the quantity of Kerosene supplied without hearing the petitioners.

For Petitioner in all WPs : Mr.P.Solomon Francis

For Respondents in all WPs : Mr.M.Rajendiran,
Additional Government Pleader.



COMMON ORDER

The relief sought for in all these writ petitions is to direct the respondents to attach 500 Family Cards to the petitioners in terms of the Common Orders in Na.Ka.1414/2006/C1 of the third respondent dated 14.06.2006 made in his proceedings and continue to supply Kerosene to the petitioners as hitherto before and consequently forbear the respondents either from altering the number of Family Cards attached to them or reduce the quantity of Kerosene supplied without hearing the petitioners.

2. The grievances of the petitioners are that the policy taken by the Government to supply Kerosene by way of Retail Registration Certificate must be cancelled.

3. The petitioners are retail vendors in Kerosene and supply of Kerosene to the consumers as per the allotment and as per the price fixed by the Government from time to time.

4. As per the norms fixed by the Government, each Family Card



Holder is entitled to 10 litres of Kerosene per month during the relevant point of time. If the Family Card holder is in possession of two LPG Gas Cylinders, then such persons are not entitled to get supply of Kerosene. Persons having one LPG Gas Cylinder is entitled to get 3 litres of Kerosene per month.

5. This being the Scheme formulated by the Government and the method of distribution is made under Retail Registration Certificate and as per the Scheme 500 Family Cards are allotted to one Retail Vendor, the petitioners state that the old procedure must be followed for the purpose of supply of Kerosene to the consumers.

6. The Scheme for supply of Kerosene is formulated by the Government then and there based on the needs and considering the various factors. As of now, the Retail Registration Certificate method has been pressed into service and accordingly, 500 Family Cards are allotted to one Retail Vendor and as per the Scheme; persons not having any LPG Gas Cylinder are entitled to get six litres of Kerosene per month, the persons having one LPG Gas Cylinder is entitled to get three litres of Kerosene per



month and persons, who are having two LPG Gas Cylinders are not entitled to get Kerosene supply at all.

7. This being the policy formulated and the same is in force, this Court is of an opinion that the petitioners, who all are the Retail Vendors cannot question the said policy, as their retail vending business has been ensured based on the Scheme. Policy decision, in this regard, cannot be questioned by the Retail Vendors.

8. As per the existing Scheme, 500 Family Cards are allotted to one Retail Vendor. This being the factum, the very relief sought for in all these writ petitions, questioning the Scheme of supply of Kerosene to the eligible persons, deserves no interference and therefore, the petitioners have no right to claim that the supply of Kerosene must be done only based on the old procedures, which has already been dispensed with by the Government, in terms of introducing the new policy.

9. This being the factum, the petitioners have not established any



right for the purpose of considering the relief, as such, sought for in all these writ petitions.

10. Accordingly, all the writ petitions stand dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

13-12-2021

Index : Yes/No.
Internet : Yes/No.
Speaking Order/Non-Speaking Order.
Svn

To

6/8



WP Nos.1477 to 1485 of 2022

- 1.The Commissioner of Civil Supplies and
Consumer Protection,
Chepauk,
Chennai – 600 005.
- 2.The District Supply Officer,
Erode.
- 3.The Special Tahsildar,
Essential Commodities,
Erode.

S.M.SUBRAMANIAM, J.



WP Nos.1477 to 1493 of 2009

Svn

WPs 1477 to 1493 of 2009

13-12-2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2021

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.37818 of 2015

and

M.P.No.1 of 2015

M/s.G.Ramasamy Naidu Son
Rep. by its Proprietor R.N.Rajmarthanden
HPCL Dealer
SF.No.432/5F, Kunnam
Perambalur District.

... Petitioner

Vs

1. The Commissioner of Civil Supplies and Consumer Protection Department, Chepauk, Chennai - 600 005.
2. The District Collector, Perambalur District, Perambalur.
3. The District Supply Officer cum Consumer Protection Officer, Perambalur District, Perambalur.
4. The District Revenue Officer cum Additional District Judge, Perambalur District, Perambalur.
5. Senior Zonal Manager, Hindustan Petroleum Corporation Ltd., Door No.90, 2nd Floor, MDSR Enclave, Bharathidasan Road, Contonment, Trichy-1.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order of the 3rd respondent in proceedings No.Na.Ka.S2/16227/2014 dated

Fk 0032750

07.11.2015 which was received by the petitioner on 19.11.2015 and quash the same and consequently, directing the respondents 3 and 4 to renew the petitioner's storage and wholesale licence for the year 2015 to 2017.

For Petitioner : Mr.M.Baskar

For Respondents
R1 to R4 : Mr.C.Sathish
Government Advocate
R5 : Mr.M.Vijayan
for M/s.King and Patridge

O R D E R

The order dated 07.11.2015 passed by the third respondent is sought to be quashed in the present writ petition and a direction is sought for to renew the petitioner's storage and wholesale license for the year 2015 to 2017.

2.The petitioner states that they are doing wholesale business in kerosene from the year 1949 in the combined District of Trichy by obtaining necessary licence and agreement from the competent authority, namely, CALTEX. The agreement was periodically renewed in the year 1967, 1971, 1985 mentioning the area of operation as Trichy District.

3.The learned counsel appearing on behalf of the petitioner made a submission that after bifurcation of Trichy District into three Districts, the area of operations were restricted and thereafter, the impugned order has been passed. The impugned order states that the license for the petitioner was granted from 01.11.2015 to 30.11.2015 on certain conditions. Two conditions are imposed in the impugned order. Firstly, the petitioner has to get area of operation from the Hindustan Petroleum Corporation Limited. In this regard, an agreement between the Hindustan Petroleum Corporation Limited and the petitioner must be submitted. Secondly, No Objection Certificate from the Fire Services Department is to be furnished.

4.The learned Government Advocate appearing for the respondents 1 to 4 brought to the notice of this Court that the petitioner had not submitted any of these documents and furthermore, the license granted expired on 30.11.2015 itself and therefore, the writ petition became infructuous.

5.The learned counsel appearing on behalf of the 5th respondent, Hindustan Petroleum Corporation Limited also made a

Fk 0032751

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submission that the petitioner had not approached the Hindustan Petroleum Corporation Limited during the relevant point of time and only in the event of an agreement, the authorities will be in a position to consider. Furthermore, the license had expired in the year 2015 and the petitioner has no right to seek any relief in the present writ petition.

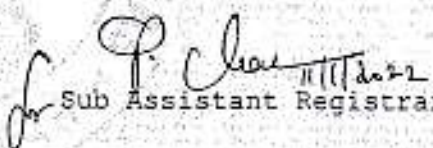
6.No doubt, in view of bifurcation of Districts the areas of operation are change. However, it is for the dealer to approach the Oil Corporation for necessary allocation of area of operation by signing agreement. In the event of signing any such agreement, it is to be produced before the competent authority along with No Objection Certificate to be granted by the Fire Services Department and all other documents or informations required for the purpose of getting distributorship of Kerosene.

7.In view of the facts and circumstances, the petitioner has not established any right for interference. Consequently, the writ petition stands dismissed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//


Sub Assistant Registrar

cse

To

- 1.The Commissioner of Civil Supplies and Consumer Protection Department, Chepauk, Chennai - 600 005.
- 2.The District Collector, Perambalur District, Perambalur.
- 3.The District Supply Officer cum Consumer Protection Officer, Perambalur District, Perambalur.
- 4.The District Revenue Officer cum Additional District Judge, Perambalur District, Perambalur.

Fk 0032752

5. Senior Zonal Manager,
Hindustan Petroleum Corporation Ltd.,
Door No.90, 2nd Floor,
MDSR Enclave, Bharathidasan Road,
Contonment, Trichy-1.

+icc to M/s.King and Partridge, Advocate SR. No.68252
+icc to the Government Pleader SR. No.68698

W.P.No.37818 of 2015

SMI (CO)
PR (06/01/2022)



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25P-19



SF 672 2018
Dy. Secy/12

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 28.11.2017
CORAM

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN
And
THE HONOURABLE MR. JUSTICE P. VELMURUGAN

W.A.Nos. 768 and 769 of 2013
And
M.P.Nos. 1, 1 and 2 of 2013

1. The Government of Tamil Nadu,
rep. by its Secretary,
Co-operative Food and Consumer
Protection Department,
Fort St. George, Chennai - 600 009.
2. The Commissioner of Civil Supplies and
Consumer Protection,
Ezhilagam, Chepsuk, Chennai - 600 005.
3. The District Supply Officer,
Madurai.
4. The District Supply Officer,
Tiruchireppalli.
5. The District Supply Officer,
Dindigul

... Appellants in both the appeals
Vs.

Tamil Nadu Handcartment & Cycle Rickshaw
Kerosene Merchants Thalaimai Sengam
rep. by its Secretary - T. Umopathy

... Respondent in both the appeals

Common Prayer:

Writ appeals filed under Clause 15 of Letters Patent
praying to set aside the order dated 31.01.2013 made in
W.P.Nos. 1829 and 1830 of 2012 respectively.

Prayer in WP.No. 1829 of 2012:

This writ petition is filed under Article 226 of the
constitution of India praying for issue a writ of declaration,
to declare the refusal to divert the Family Cards from the Bunks
to the members of Petitioners Association are illegal as the
same is contrary to the order of this Honourable Court in W.P.
No. 12830/2008 dt 25.8.2009

DC 0070636

Prayer in WP.No.1830 of 2012: This writ petition is filed under Article 226 of the constitution of India praying for issue a writ of mandamus, directing the respondents to attach 500 suppliable Family Cards to the petitioners and recognize them as Retailers within the meaning of Tamilnadu Kerosene Control Regulation of Trade Orders 1973 by receiving the application from the Members of Petitioners Association.

For Appellants : Mr.S.T.S.Moorthy
Additional Advocate General
Assisted By
Ms.T.Girijs
Government Advocate
For Respondent : No Appearance

COMMON JUDGMENT
(Judgment of the Court was delivered by K.R.SASIDHARAN, J.)

The respondent by projecting an artificial cause of action filed two writ petitions before the writ court in W.P.Nos.1829 and 1830 of 2012 for a Writ of Declaration to declare the refusal to divert the family cards from the Bunks to the members of the Association are illegal and for a Writ of Mandamus directing the appellants to attach 500 suppliable family cards to the Association and recognize them as retailers within the meaning of Tamil Nadu Kerosene Control Regulation of Trade Orders, 1973. The learned Single Judge allowed the writ petitions and a Mandamus was issued to issue retail registration certificate to the handcartmen. Feeling aggrieved by the writ issued by the learned Single Judge, the appellants have come up with these intracourt appeals.

2.The learned Additional Advocate General contended that it would neither be feasible nor possible to entrust the task of supply of kerosene through handcartmen by diverting 500 family cards, in the face of the present system of issuance of kerosene through bunks. The learned Additional Advocate General submitted that the Government would transfer the family cards from the fair price shop and it would be given to the kerosene bunks operated by the oil company.

3.None appeared on behalf of the respondent.

4.The respondent is a society registered under the Tamil Nadu Societies Registration Act. The Government earlier issued an order in G.O.Ms.No.80, Co-operation, Food and Consumer Protection Department, dated 07.05.2008, for conversion of handcartmen as retailers and attach them to fair price shops to sell kerosene for 500 card holders. The said Government Order was challenged by the respondent in W.P.No.12530 of 2008. This Court directed the appellants to implement the earlier order in

W.P.No.2321 of 1994 dated 30.07.2002 and the Government Order in G.O.Ms.No.95.

5.The respondent initiated fresh writ petitions before the writ court on the ground that the Authority refused to grant retail registration certificate to the members on the ground that the location of the shops were within the jurisdiction of the kerosene bunk operated by the Civil Supplies Corporation.

6.The learned Single Judge without even a formal order refusing to register the bunk shop on the point of jurisdiction issued a Declaration and a consequential Writ of Mandamus. There is no question of issuing a positive direction in a matter of this nature. The kerosene is an essential commodity. The Government have issued various orders relating to the business in kerosene. The Civil Supplies Corporation is managing the bunks for uninterrupted supply of kerosene. The privileges enjoyed by the public by taking kerosene from the bunks should not be denied to them by diverting their cards from the bunks and entrusting them with the handcartmen. We are therefore of the view that the learned Single Judge was not correct in issuing the Declaration and consequential direction.

7.We direct the appellants to evolve a Scheme taking into account the grievances raised by the handcartmen through the Association. We hope that the Government would issue necessary orders in the light of the genuine demands made by the handcartmen through the Association.

8.The intra court appeals are disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are also closed.

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Sd/-
Assistant Registrar (CS IV)

//True Copy//

S. S. S.
19/10/02
Sub Assistant Registrar

To

1.The Secretary,
Co-operative Food and Consumer
Protection Department,
Port St.George, Chennai - 600 009.

2.The Commissioner of Civil Supplies and
Consumer Protection,
Ezhilagam, Chepauk, Chennai - 600 005.

Dc 0070633

- 3.The District Supply Officer, Madurai.
- 4.The District Supply Officer, Tiruchirappalli.
- 5.The District Supply Officer, Dindigul

RR(CO)
sm:21.12.2017

W.A.Nos.768 and 769 of 2013
And
M.P.Nos.1, 1 and 2 of 2013

Dc 0070639