

GAHC010026852021



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WP(C)/988/2021

HARIPRASHANA HAZARIKA
S/O- LT. BENUDHAR HAZARIKA, R/O- ZOON NAGAR, BHATIAPAR, P.O.
BHATIAPAR, DIST.- SIVASAGAR, ASSAM, PIN- 785667

VERSUS

INDIAN OIL CORPORATION LIMITED AND 10 ORS
REP. BY CHAIRMAN-CUM-MANAGING DIRECTION, HAVING ITS REGD.
OFFICE AT INDIAN OIL BHAVAN, G-9, ALI YAVAR, JUNG MARG, BANDRA
(EAST), MUMBAI, PIN- 400051, MAHARASHTRA

2:CHAIRMAN-CUM-MANAGING DIRECTION
INDIAN OIL CORPORATION LTD.
INDIAN OIL BHAVAN
G-9
ALI YAVAR
JUNG MARG
BANDRA (EAST)
MUMBAI
PIN- 400051
MAHARASHTRA

3:GENERAL MANAGER
INDIAN OIL CORPORATION LTD.
NORTH EAST INTEGRATED STATE OFFICER
EAST POINT TOWER
BAMUNIMAIDAN
GHY-21
ASSAM

4:DY. GENERAL MANAGER (RS)
INDIAN OIL CORPORATION LTD.

TINSUKIA DIVISIONAL OFFICE
SRIPURIA
P.O. AND DIST.- TINSUKIA
PIN- 786125
ASSAM

5:DIVISIONAL RETAIL SALES MANAGER
INDIAN OIL CORPORATION LTD.
TINSUKIA DIVISIONAL OFFICE
TINSUKIA
ASSAM

6:DIPTI MOYEE BURAGOHAIN GOGOI
W/O- LT. GOBIND CHANDRA GOGOI
R/O- SENSUWA
BHATIAPAR GAON
P.O. BHATIAPAR
DIST.- SIVASAGAR
ASSAM
PIN- 768542

7:HIDAYANANDA GOGOI
S/O- LT. GOBIN CHANDRA GOGOI
R/O- SENSUWA
BHATIAPAR GAON
P.O. BHATIAPAR
DIST.- SIVASAGAR
ASSAM
PIN- 768542

8:KESHABANANDA GOGOI
S/O- LT. GOBIN CHANDRA GOGOI
R/O- SENSUWA
BHATIAPAR GAON
P.O. BHATIAPAR
DIST.- SIVASAGAR
ASSAM
PIN- 768542

9:PRANJAL PRATIM GOGOI
S/O- LT. GOBIN CHANDRA GOGOI
R/O- SENSUWA
BHATIAPAR GAON
P.O. BHATIAPAR
DIST.- SIVASAGAR
ASSAM
PIN- 768542
PRESENTLY RESIDING AT M.G. PATH

H.NO. 12
CHRISTIANBASTI
GHY-05

10: SURABHI MEDHI GOGOI
D/O- LT. GOBIN CHANDRA GOGOI
R/O- SENSUWA
BHATIAPAR GAON
P.O. BHATIAPAR
DIST.- SIVASAGAR
ASSAM
PIN- 768542

11: PRERONA PREETI GOGOI
D/O- LT. GOBIN CHANDRA GOGOI
R/O- SENSUWA
BHATIAPAR GAON
P.O. BHATIAPAR
DIST.- SIVASAGAR
ASSAM
PIN- 76854

Advocate for the Petitioner : MR. T J MAHANTA

Advocate for the Respondent : SC, I O C

BEFORE

HON'BLE MR. JUSTICE PRASANTA KUMAR DEKA

ORDER

18.02.2021

Heard Mr. T. J. Mahanta, the learned Senior Counsel assisted by Ms. P. Bhattacharya, the learned counsel for the petitioner. Also heard Mr. M. K. Choudhury, the learned Senior Counsel assisted by Mr. P. Bhardwaj, the learned counsel for the respondent IOC Ltd.

M/s Ganesh Service Station situated at Zoon Nagar, Bhatiapar in the district of Sivasagar is a partnership firm between two partners namely Mr. Hari Prashanna Hazarika (petitioner) and Late Gobin Chandra Gogoi. On the death of the partner, the petitioner as the partner put up a reconstitution proposal of the firm before the IOC Ltd. and on the basis of the said proposal, a meeting was proposed on 19.11.2020. The representative of the IOC Ltd. issued

notice to the petitioner and the legal heirs of Late Gobin Chandra Gogoi and the said notice was issued on 19.11.2020 informing the date of the meeting as 01.12.2020. In the said meeting dated 01.12.2020 none of the legal heirs of Late Gobin Chandra Gogoi appeared following which another meeting was scheduled on 04.01.2021. Though the proposal for reconstitution was submitted however, the same was returned after few observations made during the scrutiny of the documents by the respondent IOC Ltd. Moreover as reflected in the Minutes of the meeting held on 01.12.2020 at Tinsukia Divisional Office, one of the legal heirs of Late Gobin Chandra Gogoi raised an objection in respect of the reconstitution proposal. It is submitted by Mr. Mahanta that though the meeting was fixed on 04.01.2021, from 01.01.2021 the supply of petroleum products to the said petrol pump was stopped which came as surprise to the petitioner inasmuch as there was no prior information from the respondent IOC Ltd. moreover when the next meeting was fixed on 04.01.2021. Later on, vide letter dated 20.01.2021 issued by the Deputy General Manager (RS) Tinsukia Divisional Officer, Indian Oil Corporation Limited informed about the suspension of supplies to the Retail Outlet. The contents of the said notice are relevant which is extracted herein below:-

*“Ref. No. TDO/RS/RO/06/20-21/07 Dated: 20.01.2021
Sub: Suspension of supplies to the Retail Outlet M/s Ganesh Service station, Sibsagar.*

Sir,

M/s Ganesh Service Station, Bhatiapar, Sibsagar is a Retail Outlet for Indian Oil located at Bhatiapar, Sibsagar. The RO dealership is partnership firm with Shri Gobin Chandra Gogoi and Shri hari Prashanna Hazarika as the partners. Subsequent to expiry of Shri Gobin Chndra Gogoi on 20.11.2014, it was advised to reconstitute the RO dealership. Please refer to IOCL's earlier letter No. TDO/RS/GANESHSS-0618-19/781 dated 15.06.2018. The proposal for the reconstitution of the dealership has not yet been submitted. In case of a partnership firm, if any of the partners is not alive, the partnership deed or the dealership agreement or any other documents executed earlier under partnership, the documents automatically stand invalid. Similarly, the Trade license issued earlier by the district authority also stands invalid.

Meanwhile, one of the legal heir of Late Gobin Chandra Gogoi (partner), Shri Pranjal Pratim Gogoi had lodged a complaint regarding reconstitution of the dealership. It appears from the communication that there is a dispute between legal heirs of Late Gobin Chandra Gogoi and the surviving partner Mr. Hari Prashanna Hazarika.

Under the above situation and since there is a dispute (as mentioned above), IOCL can't continue the supplies to the Retail Outlet M.s. Ganesh Service Station. We hereby, suspend the supplies to the RO with immediate effect.

It is, hereby, requested both the surviving partner and all the legal heirs of Late Gobin Chandra Gogoi to settle the dispute amongst themselves and submit the reconstitution proposal. Till such time, the supplies to the RO will remain suspended.

*Yours faithfully
Indian Oil Corporation Limited.
Dy. General Manager (RS)“.*

It is submitted by Mr. Mahanta that the dispute is within the legal heirs of Late Gobin Chandra Gogoi for which one of the legal heirs raised objection as against the proposal for reconstitution earlier placed to the IOC Ltd. On the other hand due to the dispute amongst the legal heirs of Late Gobin Chandra Gogoi, the petitioner had already suffered a loss because of suspension of supplies to the Retail Outlet which is causing hardship both financially and mentally to the petitioner. Mr. Choudhury, the learned Senior Counsel for the IOC Ltd. on the other hand appreciated the difficulty faced by the petitioner but IOC Ltd is bound by the guidelines which cannot be waived in the present case.

In view of the submissions of the learned counsel, let notice be issued. Mr. P. Bhardwaj, accepts notice on behalf of the respondent Nos. 1, 2, 3, 4 and 5. The petitioner shall take steps on the private respondent Nos. 6, 7, 8, 9, 10 and 11 within a period of three days from today by way of registered post with A/D.

Notice is made returnable after four weeks.

In the meantime, the operation of the impugned letter dated 20.01.2021 issued by the Deputy General Manager (RS) Tinsukia Divisional Officer, Indian Oil Corporation Limited is stayed thereby directing the respondent IOC Ltd. to restore the supplies to the Retail Outlet M/s Ganesh Service Station situated at Zoon Nagar, Bhatiapar in the district of Sivasagar till the next returnable date.

JUDGE

Comparing Assistant