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

Case No. : WP(C)/738/2025

M/S S.H. ENTERPRISE
A SOLE PROPRIETORSHIP OF MD. SAFIQL HUSSAIN, S/O- LATE HUSSAIN
ALI, REPRESENTED BY ITS AUTHORIZED REPRESENTATIVE MR SAFIQL
HUSSAIN, S/O- LATE HUSSAIN ALI, WAZIDUR RAHMAN, S/O- LATE
OHIDUR RAHMAN, R/O- RAJ APARTMENT, BLOCK-B, 2ND FLOOR, GMCH
ROAD, BHANGAGARH, GHY- 781005, KAMRUP, ASSAM

VERSUS

THE INDIAN OIL CORPORATION LTD. AND 5 ORS
REPRESENTED BY ITS EXECUTIVE DIRECTOR, BONGAIGAON REFINERY,
P.O- DHALIGAON, DIST- CHIRANG, ASSAM, PIN- 783385.

2:THE GENERAL MANAGER I/C (HR)

INDIAN OIL CORPORATION LTD.
BONGAIGAON REFINERY
P.O. DHALIGAON
DIST. CHIRANG
ASSAM-783385.

3:THE DEPUTY GENERAL MANAGER (CONTRACTS)

INDIAN OIL CORPORATION LTD.
BONGAIGAON REFINERY
P.O. DHALIGAON
DIST. CHIRANG
ASSAM-783385.

4:THE SENIOR MANAGER (EMPLOYEE SERVICES)

INDIAN OIL CORPORATION LTD.

BONGAIGAON REFINERY
P.O. DHALIGAON
DIST. CHIRANG
ASSAM-783385.

5:THE CHIEF MANAGER (EMS)

INDIAN OIL CORPORATION LTD.
BONGAIGAON REFINERY
P.O. DHALIGAON
DIST. CHIRANG
ASSAM-783385.

6:BIBEKANANDA DAS
R/O 09
CHILARAI NAGAR
BND
SANTI PATH
VILL/TOWN BHANGAGARH CITY
GUWAHATI
DIST- KAMRUP METRO
ASSAM
PIN- 78103

Advocate for the Petitioner : , MR. R SHARMA, SR. ADV.,MS P PHUKAN,MR. D DEKA

Advocate for the Respondent : SC, I O C, MR. TANUZ KASHYAP (R1-R3),MR. D J DAS (R1-R3),MISS. R R KAKATI (R-1,2,3),N GAUTAM(R-1,2,3),MR. K N CHOUDHURY(R-1,2,3)

Linked Case : WP(C)/6142/2024

M/S S. H. ENTERPRISE
A SOLE PROPRIETORSHIP OF MD. SAFIQUH HUSSAIN
SON OF LATE HUSSAIN ALI
IS REPRESENTED BY ITS AUTHORIZED REPRESENTATIVE MR. SAFIQUH
HUSSAIN
SON OF LATE HUSSAIN ALI
WAZIDUR RAHMAN
SON OF LATE OHIDUR RAHMAN
RESIDENT OF RAJ APARTMENT BLOCK-B
2ND FLOOR
GMCH ROAD
BHANGAGARH

GUWAHATI
KAMRUP
ASSAM
PIN- 781005.

VERSUS

THE INDIAN OIL CORPORATION LTD AND 4 ORS
REPRESENTED BY ITS EXECUTIVE DIRECTOR
BONGAIGAON REFINERY
P.O. DHALIGAON
DIST. CHIRANG
ASSAM
PIN- 783385.

2:THE GENERAL MANAGER I/C (HR)

INDIAN OIL CORPORATION LTD.
BONGAIGAON REFINERY
P.O. DHALIGAON
DIST. CHIRANG
ASSAM
PIN- 783385.

3:THE DEPUTY GENERAL MANAGER (CONTRACTS)
INDIAN OIL CORPORATION LTD.
BONGAIGAON REFINERY
P.O. DHALIGAON
DIST. CHIRANG
ASSAM
PIN- 783385.

4:THE SENIOR MANAGER (EMPLOYEE SERVICES)

INDIAN OIL CORPORATION LTD.
BONGAIGAON REFINERY
P.O. DHALIGAON
DIST. CHIRANG
ASSAM
PIN- 783385.

5:THE CHIEF MANAGER (EMS)

INDIAN OIL CORPORATION LTD.
BONGAIGAON REFINERY
P.O. DHALIGAON
DIST. CHIRANG

ASSAM
PIN- 783385.

Advocate for : MR. R SHARMA
Advocate for : MR. K N CHOUDHURY (R1-R5) appearing for THE INDIAN OIL
CORPORATION LTD AND 4 ORS

BEFORE
HONOURABLE MR. JUSTICE SANJAY KUMAR MEDHI

ORDER

04.08.2026

Both these two writ petitions being connected are taken up for an analogous hearing and are being disposed of by this common judgment and order.

2. The facts, as projected in brief are that a contract for catering services at the IOC Guest House, Six Mile was granted to the petitioner which amongst others included housekeeping. The issue had however arisen as to who will employ the workers and on that issue the contract was terminated on 06.11.2023. The petitioner had filed two writ petitions being WP(C)/3804/2023 and WP(C)/6596/2023. Both the writ petitions were heard and were disposed of vide a judgment and order dated 06.09.2024. The termination order dated 06.11.2023 was interfered with. Further, on the submission made on behalf of the petitioner, liberty was granted to the petitioner to submit appropriate application for allowing to discharge the function for the full term as per the contract. It is the case of the petitioner that such application was accordingly submitted on 17.09.2024. However, an order dated 22.10.2024 has been passed whereby the petitioner has been allowed to perform only for the remaining 6(six) months and there was no consideration regarding the aspect of the full

term of the contract. The petitioner has accordingly instituted the first writ petition WP(C)/6142/2024.

3. In the meantime, on 01.02.2025, a new tender notice was issued which is the subject matter of challenge in the second writ petition of WP(C)/738/2025 and this Court had passed an interim order. An I.A. filed for vacating the interim order was dismissed. The matter ultimately reached the Hon'ble Division Bench through an appeal passed by the IOC and the same was disposed of vide an order dated 17.07.2025 whereby it was clarified that though there would be no blanket stay on the new process, any allotment made with the third party would be subject to the outcome of the writ petition.

4. I have heard Shri R. Sarma, learned Senior Counsel assisted by Ms. P. Phukan, learned counsel for the petitioner. I have also heard Shri K.N. Choudhury, learned Senior Counsel assisted by Ms. R. Kakoti, learned counsel for the IOC.

5. Shri Sarma, the learned Senior Counsel has submitted that the impugned Speaking Order dated 22.10.2024 cannot be termed as a "speaking order" as there is no consideration at all to the directions of this Court made in the judgment and order dated 06.09.2024. He has submitted that there was a specific direction of this Court to consider the case of the petitioner on his application to discharge the function for the full term inasmuch as, for reasons disclosed in the writ petition, the petitioner was not able to run the business. He has submitted that while in the impugned order, there is prelude of the background facts and circumstances, there is no consideration to the aforesaid aspect and in a cryptic manner, a mere observation has been made allowing the petitioner to discharge the contractual obligation for the remaining period of the contract. He has submitted that the notice dated 01.02.2025 under those facts

and circumstances for grant of a new contract is clearly in teeth of the said direction dated 06.09.2024 and accordingly WP(C)/738/2025 has been filed in which an interim order was passed. He has highlighted that though there was an application for vacation of the interim order, such application was rejected whereafter the IOC had preferred writ appeal WA/152/2025. He has however submitted that the Hon'ble Division Bench vide the order dated 17.07.2025 though has given the clearance to the IOC to go ahead with the new process, the same has been made conditional upon the outcome of the present two writ petitions. The learned Senior Counsel for the petitioner has reiterated that the impugned order dated 22.10.2024, apart from being unreasonable and arbitrary is also in defiance of the clear direction of this Court made in the judgment and order dated 06.09.2024.

6. *Per contra*, Shri K.N. Choudhury, learned Senior Counsel for the IOC has submitted that the relief prayed for in the two writ petitions are fallacious and if at all there is any grievance, the petitioner has to approach the appropriate forum for damage. He has submitted that once the period of contract is over, no right would exist upon the contractor to demand that he should be allowed to work beyond the period of the contract. It is also submitted that in the new tender process initiated vide notice dated 01.02.2025, the petitioner did not even participate.

7. In this regard, the learned Senior Counsel for the respondent has relied upon a judgment of the Hon'ble Supreme Court reported in **(1974) 1 SCC 141 Damodar Valley Corporation vs. K.K. Kar** and the observations made in paragraph 8 are pressed into service which read as follows:

“8. In certain circumstances, it may be that there has been a termination of the contract unilaterally and as a consequence the parties may agree to

rescind the contract. In such a situation the rescission would put an end to the performance of the contract in futuro, but it may remain alive for claiming damages either for previous breaches or for the breach which constituted the termination.”

8. The rival submissions have been duly considered and the materials placed before this Court have been carefully examined.

9. The termination order dated 06.11.2023 of the contract was the subject matter of challenge in the earlier two writ petitions which was disposed of vide a common order dated 06.09.2024. While this Court had held the termination to be not in accordance with law and had accordingly interfered with, a further observation was made regarding consideration of the case of the petitioner to discharge the function for the full term of the contract which was two years. For ready reference, the relevant observations of this Court in the order dated 06.09.2024 passed in WP(C)/3804/2023 and WP(C)/6596/2023 are extracted herein below:

“17. In view of the aforesaid facts and circumstances, this Court is of the opinion that a case for interference is made out. Accordingly, the termination order dated 06.11.2023 is interfered with. Consequently, the respondent- Refinery is directed to allow the petitioner to complete the contractual liabilities in terms of the work order dated 29.03.2023. It is also made clear that the respondent-Refinery cannot restrain the petitioner from engaging its own men for discharge of the duties.

18. Since the contract was for two years and because of the issue involved, the petitioner could not discharge the same, the petitioner would have the liberty to file application for allowing to discharge the functions for the full term and in case such application is made, the same would be considered by the respondent-Refinery in accordance with law and by passing of a speaking order.”

10. Shri Sarma, the learned Senior Counsel has emphasised that the contract

is a huge one in which he has made sufficient investments and therefore, under those circumstances, the prayer was made for consideration of his request for allowing him to discharge the function for the full term based upon which the observations were made by this Court in paragraph no. 18.

11. It is not in dispute that the petitioner had accordingly made a request vide communication dated 17.09.2024 to allow him to discharge the functions till the full term. The impugned order dated 22.10.2024 has however simply allowed the petitioner to complete the remaining period of the contract up-to 30.04.2025.

12. On a careful reading of the impugned order, it does not transpire that there has been any consideration at all towards the request of the petitioner to allow him to function for the full term which was one of the directions passed by this Court in the judgment and order dated 06.09.2024. While the IOC authorities in the impugned order have stated the backgrounds facts and circumstances as prelude, there is no consideration towards the direction made by this Court in paragraph no. 18 of the judgment dated 06.09.2024. It also appears that the subsequent action of the IOC in initiating a fresh tender process vide notice dated 01.02.2025 is the subject matter of challenge in the second writ petition WP(C)/738/2025 wherein there was an interim order which was also not vacated. Nonetheless, the Hon'ble Division Bench in WA/152/2025 vide order dated 17.07.2025 has clarified the issue that while there would be no restriction in the new process, any allotment done would be conditional to the outcome of this petition.

13. So far as reliance by the respondents upon the case of ***Damodar Valley Corporation*** (supra) is concerned, there is no dispute to the proposition laid down that in case of a termination of contract unilaterally, an aggrieved party

can only claim damages. This Court is however of the considered opinion that it is not the termination which is the subject matter of challenge and in fact such termination dated 06.11.2023 was already interfered by this Court in the judgment and order dated 06.09.2024 which has not been put to any further challenge and has attained finality. This aspect has also been taken into consideration by the Hon'ble Division Bench in the order dated 17.07.2025.

14. In view of the above, both the writ petitions are disposed of by setting aside with the order dated 22.10.2024 and by directing the IOC to give a fresh consideration to the request of the petitioner to allow him to function for the full term as per the contract, initially granted to him. Such consideration has to be made by taking into account the relevant factors including the aspect of the investment said to be made by the petitioner.

15. While making such consideration, the petitioner / his representative is also required to be given a personal hearing. Let the aforesaid exercise be undertaken and completed within a period of 6 (six) weeks from today and the outcome of such consideration be communicated to the petitioner in writing. The aforesaid outcome would also determine the new contract given pursuant to the notice dated 01.02.2025 which is already made conditional as per direction of the Hon'ble Division Bench of this Court.

16. Cost made easy.

JUDGE

Comparing Assistant