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C.A.No. 6517 OF 2001

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.6517 OF 2001

INDIAN OIL CORPORATION LTD., CHENNAI & ANR.

.....  
APPELLANT(S)

:VERSUS:

N. GOPALAKRISHNA PILLAI & ANR.

.....  
RESPONDENT(S)

WITH

CIVIL APPEAL NO.6518 OF 2001

B. KRISHNAKUMARI

.....  
APPELLANT(S)

:VERSUS:

INDIAN OIL CORPORATION LTD., CHENNAI & ORS.

.....  
RESPONDENT(S)

O R D E R

Since the subject matter of both these appeals is common, we dispose them of by this common order. Briefly stated, the facts are that one N. Gopalakrishna Pillai was granted licence for LPG distributorship sometime in the year 1994, against the category meant for 'Freedom Fighters'. However, it appears that on his request, later on, sometime in 1996, his granddaughter, namely, B. Krishna Kumari was inducted as a partner in the business and the licence came to be in the name of the new partnership firm. Later, it seems, that some differences arose between the two partners, as a result of which N. Gopalakrishna Pillai again made a request that he may be allowed to have other partners in the firm in place of B. Krishna Kumari. This change could be possible only with the permission and under the orders of the Indian Oil Corporation. Since it appears that this request was not being attended to, N. Gopalakrishna Pillai moved a writ petition which was disposed of with a direction to the authorities to dispose of the matter, namely, the application moved by N. Gopalakrishna Pillai for change in the partnership firm. Smt. B. Krishna Kumari also appears to have moved a writ petition which was also disposed of with a direction that her case shall also be considered while considering the application of N. Gopalakrishna Pillai. The Indian Oil Corporation by order dated 16.12.1999 refused to accede to the request made by Mr. Pillai and it was ordered that the partnership with Smt. B. Krishna Kumari alone could be permitted to run the LPG distributorship. They were allowed time upto 31-3-2000, to patch up their differences amicably. This order came to be challenged by means of a writ petition filed by N. Gopalakrishna Pillai. The writ petition was dismissed with the observation that no infirmity was found in the order passed by the Indian Oil Corporation.

The appeal preferred by N. Gopalakrishna Pillai in the Madras High Court was allowed by order dated 12.2.2001, and the order passed by the Indian Oil Corporation was quashed in so far it placed a condition that Smt. B. Krishna Kumari must remain there as a partner, then alone the LPG distributorship would be allowed to continue. We feel that the High Court, in appeal, was

right in observing that some undue weightage was given to certain facts relating to Smt. B. Krishna Kumari, which we find were certainly not germane to terms and conditions of agreement and the policy, on the matter of grant of LPG distributorship licence and for consideration of change in partnership etc. In the circumstances, we feel that it would be appropriate that the Indian Oil Corporation may have a fresh look of the whole matter and takes a decision on merits independently after taking into account all the relevant facts and factors, the terms of the agreement and the policy on the subject, without being unduly influenced by one or the other observation in the Judgments of the High Court. The case of Smt. B. Krishna Kumari may also be kept in mind and considered but not as the sole criteria for taking a decision in the matter. The Indian Oil Corporation, may in its discretion also consider whether the partnership could be run with some other partners along with Smt. B. Krishna Kumari, in case any such suggestion comes from any party with consensus of all.

We are informed that the earlier decision dated 16.12.1999, was taken by the Deputy General Manager of the Indian Oil Corporation. Considering all the facts and circumstances, we would like to provide that the matter may now be considered afresh by a higher authority, namely, by the Executive Director, in case of non-availability of the Executive Director, by an officer of equal rank. Since the matter is hanging since long it is desirable to have an early disposal of the matter, preferably within a period of three months from today.

Both the appeals stand finally disposed of and the Judgment and Order passed by the High Court in appeal stands modified to the extent indicated above.  
There shall be no order as to costs.

.....J  
( BRIJESH KUMAR )

.....J  
( ARUN KUMAR )  
NEW DELHI,  
NOVEMBER 19, 2003.

ITEM NO.102 COURT NO.11 SECTION-XII  
S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CIVIL APPEAL NO.6517 OF 2001

INDIAN OIL CORPORATION LTD., CHENNAI & ANR.

.....  
APPELLANT(S)

:VERSUS:

N. GOPALAKRISHNA PILLAI & ANR.

.....  
RESPONDENT(S)

(With Office Report)

WITH C.A.NO.6518/2001 (With Office Report)

Date : 19/11/2003 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE BRIJESH KUMAR  
HON'BLE MR. JUSTICE ARUN KUMAR

For Appellant (s)Mr. R.K. Jain, Sr.Adv.  
Ms. Asha Jain Madan,Adv.

Mr. R. Ayyam Perumal,Adv.

For Respondent (s)Mr. V.R. Reddy, Sr.Adv.  
Dr. A. Francis Julian,Adv.  
Mr. Sumit Kumar,Adv.  
Mr. M.A. Chinnaamy,Adv.

UPON hearing counsel the Court made the following  
O R D E R

Mr. R.K. Jain, learned senior counsel for the appellants argued the matter for about half an hour. Thereafter Mr.R. Ayyam Perumal, learned counsel for the respondents argued for about 15 minutes. Mr. V.R. Reddy, learned senior counsel for the respondents argued the matter for about 45 minutes. ....2/-

-2-

The appeals stand finally disposed of and the Judgment and Order passed by the High Court in appeal stands modified to the extent indicated in the signed order.  
There shall be no order as to costs.

(A.S. BISHT)(KANWAL SINGH)  
COURT MASTER

COURT MASTER

[Signed order is placed on the file]