

BEFORE

HON'BLE MR JUSTICE I A ANSARI

Heard Mr. A.K. Goswami, learned Senior counsel, appearing on behalf of the petitioner, and Mr. B. J. Talukdar, learned Government Advocate, appearing on behalf of respondent Nos. 1 and 2. Also heard Mr. S.N. Sarma, learned Senior counsel, appearing on behalf of respondent Nos. 3, 4 and 5.

The respondent No. 5, namely, Assistant Manager (LPG Sales), Indian Oil Corporation Ltd. (in short, the 'IOC'), Silchar, sent a report to the respondent No. 2, namely, Deputy Commissioner, Cachar, Silchar, alleging to the effect, inter alia, that on the basis of an information, received by the I.O.C. from the Superintendent of Food, Civil Supplies and Consumer Affairs, Cachar District, and also a report from the Superintendent of Police, Cachar, about the petitioner, namely, M/s Balaji Gas Agency, having received LPG cylinders unauthorisedly, a physical verification of the godown of the petitioner was carried out and the verification, so carried out, revealed that there was shortage of 524 numbers of domestic cylinders at the said godown. Apart from the sending the report aforementioned, the respondent No. 2 passed an order, on 01.09.2008 (Annexure 7 to the writ petition), temporarily suspending the petitioner's distributorship and sent a copy of the said order to the Superintendent of Police, Cachar, Silchar, the I.O.C.,. Thereafter, the I.O.C. authorities carried out a comprehensive verification of the entire stock of the petitioner's godown on 30.09.2008 and found that there was no discrepancy in the maintenance of stock by the petitioner.

In the above situation, as submitted, on behalf of the I.O.C., the I.O.C. has no reason to continue with the suspension of the petitioner's distributorship and is, thus, willing to restore the petitioner company's distributorship. Mr. S.N. Sarma, learned Senior counsel, however, points out that the I.O.C. has come to learn that the Deputy Commissioner, Cachar, has, in the meanwhile, suspended the trade licence of the petitioner by order, dated 18.09.2008, and so long as the trade licence is not restored, it would not possible for the I.O.C. to revoke the suspension of the petitioner company's licence.

Though Mr. Talukdar, learned Government Advocate, has, on the basis of the instructions received, submitted before this Court, the reasons, which had been assigned for the suspension of the trade licence of the petitioner, what needs to be pointed out is that the instructions, received by Mr. Talukdar, reveal that the respondent No. 2, namely, Deputy Commissioner, Silchar, did not take into account the subsequent developments, which have taken place, namely, that the I.O.C. has, on a more comprehensive verification of the stock of the petitioner company, has found no discrepancy. In such circumstances, the Deputy Commissioner has to examine the whole matter and, unless there are some other lawfully justifiable reasons(s), suspension of the trade licence of the petitioner company may not be continued.

Considering, therefore, the matter in its entirety and in the interest of justice, this writ petition is disposed of with liberty given to the petitioner company to make a representation, in this regard, to the respondent No. 2, namely, Deputy Commissioner, Cachar, Silchar, seeking restoration of his trade licence and, if such a representation is made, the respondent No. 2 shall, in the light of the materials, which may be available, take a decision and do the needful in accordance with law. Whatever decision is arrived at by the respondent No. 2, the same shall be communicated, in writing, to the petitioner company. The whole exercise, so directed, shall be completed within a period of one week from the date of receipt of the representation, which the petitioner company may make, as indicated hereinbefore. The petitioner may furnish to the respondent No. 2, while making his representation, a copy of this order along with a copy of this writ petition and annexure(s) thereto. It is, however, made clear that the respondent No. 2 may call for such report(s) as may be necessary, for the purpose for disposing of the representation, which may be submitted by the petitioner company, as directed hereinbefore.