

(2000) 11 DEL CK 0111

In the Delhi High Court

Case No : CW. No. 4062/99

Bentex Motor Control Gear Industries and Another

APPELLANT

Vs

Bureau of Indian Standards

RESPONDENT

Date of Decision : 22-11-2000

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2000) 11 DEL CK 0111

Hon'ble Judges : Manmohan Sarin, J

Bench : Single Bench

Advocate : Lovkesh Sawhney, for the Appellant; B.K. Sood, for the Respondent

Judgement

Manmohnn Sarin, J.—Rule.

With the consent of the parties the petition is taken up for disposal.

2. The petitioner has filed this writ petition seeking quashing of the letter dated 16.9.1998 and 20.11.1998 issued by the respondent/Bureau of Indian Standards. Letter dated 16.9.1998 is simply an acknowledgement letter and of no consequence. By letter dated 20.11.1998 i.e. annexure-P-4, respondent/Bureau of Indian Standards required the petitioner to first seek and produce the approval by the oil companies for the manufacture of pressure regulators with a diameter of 25.6 + - .3 mm, to enable the respondent to process the petitioner's application for grant of certification by them.

3. The petitioner has come to the court seeking a direction that the respondent be asked to accord the approval and certification for IS 9798 relating to pressure regulators by inspecting its factory without insisting upon the prior approval from the oil companies.

4. Learned counsel for the petitioner has submitted that the petitioner has set up its factory with all the equipment. The procedure to be followed is that the Bureau of Indian standards should inspect and consider and approve the

drawings to be submitted by the petitioner for manufacture of the said pressure regulators. It is only after the petitioner obtains the certification from BIS, that the petitioner could seek the permission of the oil companies for manufacture of pressure regulators and supply to them. Learned counsel for the petitioner submits that the certification by the Bureau of Standards would enable the petitioner to get approval of the oil companies. Learned counsel also places reliance on an interim order passed by a Division Bench of this Court in CM. 2329/90 in CM No. 2143/88. By the said order Bureau of Indian Standards were directed to inspect the factory of the M/s. SKN Associates, petitioner in that case, prior to their seeking approval from oil companies for supply of regulators. Learned counsel submits that this order has not been assailed by the respondents and should Therefore, be accepted as a precedent for this case.

5. Learned counsel for the respondent has submitted that the order of the Division Bench was passed when the present Liquefied Petroleum Gas (Regulation of Supply and Distribution) order of 1993 was not in force. Learned counsel for the respondent placed reliance on the aforesaid order to urge that in terms of the various provisions of this order namely the provisions relating to parallel marketer, public distribution system, manufacture, supply and possession of pressure regulators and the restrictions on supply or sale of liquefied petroleum gas equipments, the situation has changed. Learned counsel urges that in terms of the notification the manufacture and supply of pressure gas regulators is confined to Government Oil Company or parallel marketers. In fact there is a prohibition on sale of pressure regulators to any person other than the consumer i.e. the oil Company or a parallel marketer. Further in terms of these regulations a standard size and specification has been prescribed for the pressure gas regulator, which is required to conform to IS 9798, which is to be supplied to the oil companies under the public distribution system, i.e. a size of 25.6 mm + - 3 mm. The supply of regulators of sizes other than the above are permitted for other than the public distribution system. In short the submission is that under the 1993 regulations, there is a prescribed size for pressure regulators, which are to be supplied only to the oil companies. It is for this reason that the Bureau of Indian Standards with a view to discourage all and sundry from applying for certification of pressure regulators of prescribed size are now requiring that the consent of the oil companies be obtained, prior to the bureau entertaining the application for certification by the Bureau of Indian Standards. There is rationale for the position now being taken by the Bureau of Indian Standards, inasmuch as if the sale and manufacture is to be confined to the oil companies, the petitioner may initially show that the applicant meets the eligibility criteria of a manufacturer and supplier as may be required by the oil companies, prior to entertaining his application for certification by the Bureau of Indian Standards. Learned counsel, however, very fairly concedes that in case the oil companies, state that for accepting the petitioner as a supplier or having it registered with them they require certification from ISI first, the respondent would then process the application of the petitioner. However, in the instant case

the petitioner has not even chosen to approach the oil companies in the first instance. The petitioner Therefore in my view is not entitled to the relief as sought by him without first approaching the oil companies first. In view of the stand taken by the Bureau of Indian Standards, I find no ground to entertain this petition. The petitioner may approach the oil companies as discussed in the first instance and obtain their confirmation as an acceptable manufacturer.

Writ petition stands disposed of in above terms.