

(1999) 12 AP CK 0100

In the Andhra Pradesh High Court

Case No : Writ Petition No. 13052 of 1999

C. Venugopal Reddy

APPELLANT

Vs

Indian Oil Corporation, Vijayawada and another

RESPONDENT

Date of Decision : 24-12-1999

Acts Referred:

Constitution of India, 1950 — Article 19(1)

Citation : (2000) 3 ALD 698 : (2000) 2 ALT 533

Hon'ble Judges : Elipe Dharma Rao, J

Bench : Single Bench

Advocate : Mr. S. Niranjan Reddy, for the Appellant; Mr. R. Raghunandan, for the Respondent

Judgement

1. This writ petition was filed seeking to issue writ of mandamus declaring the action of the respondents in issuing a notification dated 8-6-1999 for appointment of LPG Distributor for Proddutur town of Cuddapah District as illegal, arbitrary and unconstitutional. It is stated by the petitioner that he was appointed as LPG dealer of the first respondent Corporation in the year 1975 for the Town of Proddutur, Cuddapah District and he started the dealership in the name of "Sri Balaji Gas Agency" and was doing business to the satisfaction of every one without any complaints. He further stated that Proddutur is small town situated at a close proximity to Cuddapah town and there are two LPG dealerships operating at Proddutur. It is further stated that Proddutur being a small town does not have a wide demand for LPG connections. The demand for LPG cylinders and connection for Proddutur town also comprises of the demand from the nearby villages and mandals where no separate dealership are available. After several years of struggled existence, the petitioner now reached a point where the dealership has barely reached a stage of viability. At present the petitioner is catering to a demand of a refill range of 6,000 to 7,500 cylinders per month. He further submitted that the other dealer for Proddutur town has barely a demand for monthly refill range of 3000 to 4000 cylinders per month. That is both the dealers put together account for approximately a refill range of 10,000 cylinders

per month. He further submitted that as per the norms of the first respondent corporation pertaining to its dealership, the first respondent corporation has fixed a monthly refill range of 6000 to 6500 as a viable range. Therefore it makes clear that the two dealers of Proddutur town are both together yet to reach a stage of reaching such viability. While so, the first respondent corporation has recently issued a notification in the Daily news paper calling for applications for appointment of LPG distributors through out the State of Andhra Pradesh. The respondent corporation, however, notified several mandals of Cuddapah district for starting LPG distributorships. Therefore, questioning the above action of the respondents, the petitioner filed the present writ petition.

2. In reply to the above assertions made by the petitioner, the respondent Corporation filed its counter stating that the petitioner's LPG distributorship was commenced on 24-12-1975 and that notifying a new distributorship for Proddutur town is not in violation of the norms of the corporation. These distributorship are notified on the basis of marketing plans drawn up by the public sector oil companies in consultation with the Ministry of Petroleum. There was a proposal to appoint a new LPG distributor in the 1994-96 marketing plan itself. In pursuance of this proposal, an advertisement has been placed in the news paper on 13-11-1995. However, this advertisement was cancelled and a fresh advertisement was made on 8-6-1998 and 9-6-1998. The first respondent denied that Proddutur does not have wide demand for LPG connections and the present waiting list with M/s. Balaji Gas Agency is 2916 as on 30-6-1999 and the persons who were registered from 1-1-1991 have not received LPG connections. As per the distributorship agreement, the distributor's area of operation is 5 KM from Proddutur town and hence Proddutur town itself has a considerable demand. The above waiting list pertaining to the applicants of Proddutur town is without including the demand of nearby villages. The refill ceiling for distributors of this nature is 6000 refills per month and is common for all the distributors. It is further submitted that after making feasibility study under the guidelines issued from time to time in consultation with the Ministry of Petroleum, the feasibility study takes into account various factors, such as population as per the latest census, the norms for estimating the number of families, the norms for estimating number of families which will take LPG connections etc. The ceiling limit is determined by the public sector oil company in consultation with the Ministry of Petroleum and the same is intimated to all the distributors from time to time. The ceiling was last revised in 1997 and the same was intimated to the distributors of the first respondent in its quarterly news sent to its distributors in July, 1997. In this bulletin the distributors were informed that the refill ceiling limit for town with population upto 10 lakhs was 6000 refills per month. The population of proddutur town as per 1991 census is 1,33,860 and the present population would be around 1,55,278, the assumption that the growth rate would be 2% per year. The estimated refill consumption of the said town is 19,060 cylinders per month.

3. As per the policy of the respondents, the following conditions are imposed in

the revision in ceiling on the sale of LPG refills by distributors.

1. The concept of refill ceiling based on the population of towns/cities where LPG is being marketed was introduced with the following objectives:

1.1.: To plan distributorship net-work.

1.2: Provide better customer service through identified operational area which will optimise operating cost, thereby improving efficiency and profit of the distributor.

1.3: Provide additional business opportunity.

1.4: Eliminate monopolistic market and thereby improve customer satisfaction through competition amongst the distributors.

2. The Ministry of Petroleum and Natural Gas has revised upward refill ceiling limit in different towns/cities with effect from 14th May, 1997 based on 1991 census. The revised refill ceiling limit is 6000 for the towns upto 10 lakhs population.

4. Therefore, it is clear from the above conditions that the respondents have taken care in revising the ceiling on the sales of LPG refills for better customer service through identified operational area which will optimise operating cost and improve efficiency and profit of the distributor, to provide additional business opportunity, to eliminate monopolistic market thereby to improve customer satisfaction through competition amongst the distributors. Evidently, satisfaction and service to the customer is the criteria in the distributorship of LPG distributorship. Therefore, the respondents have taken care in protecting the interest of the distributors by providing additional business opportunity and eliminating monopolistic market and creating competition among the distributors in order to serve the customers in a better way. Therefore, the petitioner, who is one of the distributors in Proddutur town, can not assail the policy of the respondents, which is framed in consultation with the Ministry of Petroleum and Natural Gas to improve the distribution system of the LPG and to provide profit to the distributors and eliminate monopolistic market as illegal. The petitioner can not claim monopoly in the distribution of the LPG in Proddutur town and contend that by virtue of the appointment of one more distributor, because of the population and area demand, his business will become non-viable and cause loss to his business.

5. Of course, any economic activity must result in some profit. The petitioner has asserted in the affidavit, that by virtue of the appointment of one more distributor in Proddutur town his business has suffered and resulted in no profit to him. But as seen from the policy conditions in the revision in ceiling on the sale of LPG refills by distributors, the respondents have taken care to provide additional business opportunities, eliminate monopolistic market and thereby improve customer satisfaction and encourage competition among the distributors. The appointment of one more distributor in Proddutur town is in

pursuance of the policy decision taken by the respondents in consultation with the Ministry of Petroleum and Natural Gas as early as in the year 1995, in the interest of public and also in view of the fact, as stated by the respondents, that the wait list number for sanction of gas connection in Proddutur town is 2916 as on 30-6-1999 and the persons registered from 1-1-1991 have not received LPG connection. In those circumstances, it, can not be said that the policy decision taken by the respondents is offending Article 19(1)(g) of the Constitution of India. Therefore, I do not see any reason to entertain the writ petition and interfere with the action initiated by the respondents. Accordingly, the writ petition fails and is dismissed. No costs.