

**(2020) 03 PAT CK 0026**

**In the Patna High Court**

**Case No : Civil Writ Jurisdiction Case No. 1823 Of 2020**

M/s Richa Indane

APPELLANT

Vs

State Of Bihar And Ors

RESPONDENT

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**Date of Decision : 03-03-2020**

**Acts Referred:**

**Citation : (2020) 03 PAT CK 0026**

**Hon'ble Judges : Ashutosh Kumar, J**

**Bench : Single Bench**

**Advocate : Bindyachal Singh, Puneet Siddhartha, Aryan Sinha, Ravi Kumar, Ankit Katriar, Arvind Ujjwal**

**Final Decision : Disposed Of**

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## **Judgement**

A counter affidavit has been filed during the course of arguments. Let it be taken on record.

The present writ petition has been filed against a communication dated 11.01.2020 issued by the Indian Oil Corporation, whereby the customers

attached with the petitioner have been tagged with another distributor, the reason being a request by the District Administration in the wake of a raid

in the premises of the petitioner and the District Administration prima facie finding that there had been violations of the provisions of the Essential

Commodities Act, 1955.

It would be apposite to quote the order dated 24.02.2020 for the sake of completeness and avoiding prolixity and repetition:

â??A counter affidavit on behalf of the Indian Oil Corporation has been filed today in the Court.

Let it be taken on record.

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The petitioner is aggrieved by the communication dated 11.01.2020 contained in Annexure-8 to the petition by the Indian Oil Corporation

whereby the petitioner has been made known that all Indane customers enrolled/tagged with the petitioner, which is an outlet dealership for

the LPG to any nearby distributor for ensuring smooth refill/supply to the customers with immediate effect. The aforesaid decision of the

Indian Oil Corporation is based on a report dated 09.01.2020 received from the Sub-Divisional Officer, Siwan.

In the counter affidavit, the letter dated 09.01.2020, referred to in the communication dated 11.01.2020, has been brought on record. It

only states that in view of the letter dated 07.01.2020 addressed to the District Magistrate by the Sub-Divisional Officer, the Indian Oil

Corporation is requested to de-tag the customers from the petitioner's concern and allot it to any one of the nearby distributors.

It has been submitted on behalf of the petitioner that on inspection of the premises of the petitioner by the State Administration, it was found

that 5 Kgs cylinders were being refilled from 14 Kgs cylinders without any authorization. As such, the entire premises were sealed and the

consequent communications were issued.

The petitioner grieves that he has been a dealer of Indane for the last 15 years and as part of his dealership responsibility, he carries on

the distribution of 19 Kgs, 14 Kgs and 5 Kgs cylinders of Indane.

The assumption of the District Administration that there was an unauthorized refilling from 14 Kgs cylinder to 5 Kgs cylinder was only

arrived at on the basis of presence of 5 Kgs cylinders in the premises of the petitioner for which he is entitled.

The petitioner was also not served with any notice to explain his cause.

Mr. Ankit Katriyar, learned advocate for the Indian Oil Corporation is directed to bring on record the letter dated 07.01.2020 referred to

in the communication dated 09.01.2020 and any further document in that regard.

Mr. Arvind Ujjawal, learned SC-4 is also directed to file a detailed counter affidavit by the next date.

Re-notify on 2nd of March, 2020, retaining its position.

Mr. Arvind Ujjawal, learned SC-4, after filing the counter affidavit across the board, has informed this Court that in the confiscation proceeding with

respect to the gas cylinders which were seized which has been initiated, the petitioner has been participating.

On being questioned about the authority of the District Magistrate to seal the premises in its entirety, Mr. Arvind Ujjwal took a very fair stand and has

stated that there would not be any requirement of sealing the entire premises in the event of cylinders having been seized and a confiscation

proceeding initiated. He therefore submits that within a period of one week, the premises of M/s Richa Indane shall be de-sealed.

The aforesaid stand of the State is based on the fact that such sealing was done at the request of Indian Oil Corporation only.

Mr. Ankit Katriar, learned counsel for the Indian Oil Corporation however submits that such a request was made only in response to a letter to the

company by the District Administration for de-tagging the customers from M/s Richa Indane and attaching them to another outlet for smooth and

effective supply of LPG cylinders.

The Indian Oil Corporation is now ready to restore to the petitioner the customers who are attached to the outlet and resume the supply of LPG, but

subject to the Marketing Discipline Guidelines " 2018, which has consistently been followed by the Oil Company including Indian Oil Corporation.

Let that be done within one week of de-sealing of the premises by the District Administration as is the stand of the State Government today.

In this view of the matter, learned counsel for the petitioner submits that the petitioner would stand satisfied if the premises is desealed and there is

resumption of supply of LPG cylinders by the Indian Oil Corporation.

The petitioner would contest the confiscation proceeding and it would be open for the Indian Oil Corporation to take a decision with respect to

continuing with the dealership of the petitioner, in case of any negative report in the confiscation proceeding or if otherwise it is found that the

petitioner is not conforming to the guidelines of marketing and is indulging in practices which are prohibited. In case any action against the petitioner is

taken, it is needless to reiterate that the petitioner would have the liberty of challenging the same.

With the aforesaid observation / direction, this petition stands disposed off.