
(2012) 01 MAD CK 0013

In the Madras High Court

Case No : Writ Petition No's. 1119 and 1120 of 2011 and M.P. No's. 2 and 2 of 2011

R. Vetriselvi and Another

APPELLANT

Vs

Manager, Sri Subam Gas Agencies, Chidambaram and Another

RESPONDENT

Date of Decision : 18-01-2012

Acts Referred:

Essential Commodities Act, 1955 — Section 3

Citation : (2012) 3 MLJ 413

Hon'ble Judges : V. Ramasubramanian, J

Bench : Single Bench

Advocate : V. Lakshminarayanan and T. Saravanan Advocates, for the Appellant; K.G. Senthilkumar and P.S. Sivasubramaniam, for the Respondent

Final Decision : Dismissed

Judgement

V. Ramasubramanian, J.—The petitioners have come up with the above writ petitions challenging the orders of the Indian Oil Corporation

calling upon the petitioners to surrender one of the two gas connections held in the same household. Heard Mr. V. Lakshminarayanan, learned

counsel for the petitioners, Mr. K.G. Senthilkumar, learned counsel for the first respondent and Mr. P.S. Sivasubramaniam, learned counsel for the

second respondent-Oil Corporation.

2. In W.P. No. 1119 of 2011, the petitioner's husband by name Ramaiyan obtained a LPG connection for domestic purposes in the year 1981.

The petitioner applied and obtained a connection in the year 2001.

3. In W.P. No. 1120 of 2011, the petitioner's husband by name N. Sivakumaran, obtained a domestic LPG connection in the year 1990 and the

petitioner herself obtained a connection in the year 1999.

4. The Ministry of Petroleum and Natural Gas issued an order on 26.4.2000, in exercise of the power conferred by Section 3 of the Essential

Commodities Act, 1955. The said order was notified under the name "Liquefied Petroleum Gas (Regulation of Supply and Distribution) Order

2000". Under Clause 3 of the said Order, a person having a connection for LPG under the Public Distribution System, was prohibited from

possessing more than one connection. However, the proviso enabled the Central Government or the Chief Executive Officer of a Government Oil

Company to sanction more than one connection, keeping in view the difficulty and the hardship experienced by such a person.

5. The word "person" appearing in Clause 3 of the said Order, was not defined in the said Order passed on 26.4.2000. Therefore, a dispute arose

with regard to the definition of the word "person", which culminated in a decision of the Division Bench of this Court in *M. Mariappan v. Manager,*

Standard Appliances 2009 (5) CTC 532 : LNIND 2009 Bmm 957 : (2010) 1 MLJ 469. It was held therein that the word "family" cannot be read

into the expression "person" appearing in Clause 3. The Division Bench rejected the plea of the Oil Company that, the expression "person" has to

be considered as referable to a "family". But, it appears that by the time the said decision was rendered on 7.10.2009, the Ministry of Petroleum

and Natural Gas issued another notification dated 10.9.2009, modifying the Order of the year 2000. In the said notification dated 10.9.2009, the

Government of India defined the expression "household" and clarified that the, word "person" wherever it occurred, should be substituted with the

word "household".

6. Therefore, taking note of the amendment issued on 10.9.2009, substituting the word "household" for the word "person" in the Order 2000, the

second respondent directed the petitioners to surrender one service connection, on the ground that the same household cannot have more than one

connection. Aggrieved by the said Orders, the petitioners are before this Court.

7. Insofar as W.P. No. 1120 of 2011 is concerned, the service connection in the name of the writ petitioner's husband, was obtained in 1990 and

the service connection in the name of the petitioner was obtained in 1999 itself. It was only on 26.4.2000 that the aforesaid Order was notified.

The Order, as seen from Clause 1 (3) came into force on the date of publication in the official Gazette. The Order was not given retrospective

effect. Therefore, even the 2000 Order cannot be made applicable to the case of the petitioner in W.P. No. 1120 of 2011.

8. Insofar as the case of the petitioner in W.P. No. 1119 of 2011 is concerned, there is no dispute that the petitioner's husband obtained the

connection in 1981 and the petitioner obtained a connection in 2001. Though the petitioner obtained the connection in 2001 the Order of the year

2000, could not be put against the petitioner, until the 2009 Order came into force. The 2009 Order also made it clear under Clause 1(2) that it

shall come into force on the date of publication in the official Gazette. Once it is stated in the notification that it shall come into effect, from the date

of its publication in the official Gazette, the substitution of the word ""household"" for the word ""person"", can also come into effect only from the date

viz., 10.9.2009 and before the said order, the petitioner in the first writ petition had also obtained connection. Therefore, by an interpretation, it is

not possible for the second respondent to give effect to both the notifications with retrospective effect. There is no claim that the petitioners were

guilty of any other wrong which disentitles them to the connections that they obtained at those points of time. Therefore, it is not possible for the

second respondent to apply the Orders retrospectively, when the very application of the provisions of the Order has been specifically made to take

effect from the date of notification. In such circumstances, the impugned orders are contrary even to the Orders on the basis of which they have

been issued. Hence, they are liable to be set aside. Accordingly, the writ petitions are allowed and the impugned orders are set aside. No costs.

Consequently, connected miscellaneous petitions are closed.