H.P. Auto Care, Dealer, Hindustan Petroleum Corporation Ltd. and Others Vs The Secretary, Ministry of Petroleum, Oil and Natural Gas, Government of India, The Chairman, Hindustan Petroleum Corporation Limited, The General Manager-South Zone, Hindustan Petroleum Corporation Ltd. and The Senior Regional Manager, Coimbatore Regional Office, Hindustan Petroleum Corporation Ltd. and Others etc. etc.

Court: Madras High Court

Date of Decision: Dec. 15, 2009

Acts Referred: Constitution of India, 1950 â€" Article 14, 19, 19(1), 299
Customs Act, 1962 â€" Section 25

Hon'ble Judges: K. Chandru, J

Bench: Single Bench

Advocate: V.P. Sengottuvel, in W.P. No. 640 of 2008, S. Doraisamy, in W.P. Nos. 41313/06, 6116 to 6118 of 2007, 34999 of 2005, 14829, 18392, 21477 and 24341 of 2007, V.T. Gopalan, SC for V. Chandrakanthan, in W.P. No. 6409/07, 11532/07, AL. Gandhimathi, in W.P. No. 8017/2007, P. Jagadeesan, in W.P. No. 21415 of 2007 and R. Subramaniam, in W.P. No. 19757 of 2007, for the Appellant; T.R. Rajagopalan, SC for R. Ravi, Vijayan, for King and Patridge for RR3 and 4 in W.P. 34999 of 2005 and M.Gopikrishnan for R1 in W.P. No. 34999 of 2005, 11512 and 18392 of 2007, for the Respondent

Final Decision: Dismissed

Judgement

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K. Chandru, J.
Heard both sides. In all these writ petitions, the petitioners are the land owners and have given their lands for running retail

outlets of the Indian Oil Corporation or Hindustan Petroleum Corporation Ltd. or IBP Co. Ltd., as the case may be, and are demanding grant of

regular retail outlet dealership on the basis of land owners category. All these matters were heard on 20.11.2009 and orders were reserved.

2. In W.P. No. 19757 of 2007, the said writ petitioner is one Sathyamangalam Lorry Owners'' Association represented by its President, seeking

for a writ of declaration declaring that action of respondents 2 to 4 in not applying the policy dated 8.10.2002 in ref. Policy/MDPM No. 319/02 in

respect of the retail outlet situated at Satyamangalam and further action in seeking to apply the revised policy of the first respondent dated

6.9.2006 regarding the appointment of regular dealer for the said outlet as arbitrary, illegal, colourable exercise of power, violative of fundamental

right guaranteed under Articles 14 and 19 of the Constitution of India and contrary to the policy of the first respondent dated 8.10.2002. The said

writ petition was heard on 26.11.2009 and orders were reserved. A common order is being passed in all these writ petitions.

3. In many of the cases, the lease agreements have been entered into between the parties. Allotment of outlets was also made in favour of the

petitioners. The lease has also been registered on several dates. The petitioners submitted that they were the owners of lands, in which retail outlets

are operated. The Oil Companies, after taking the lands on lease, awarded dealership to the owners. The petitioners" land were situated in vantage

position. The lands were levelled with considerable extent to locate the retail outlets. The lease has also been signed for a long period, i.e. 15 to 20

years. After entering into the lease deeds, No Objection Certificates were obtained from the District Revenue Officer. Licence from the Fire

Service, Electricity Supply from the Tamil Nadu Electricity Board and licence from the department of Explosives were also obtained.

4. It was also stated that the petitioners were directed to get appropriate clearance from the authorities under various labour enactments. It is only

on complying with these conditions, a retail outlet is being operated either by the petitioners or their nominees, who are their close relatives. They

have incurred considerable expenses. It is only on the basis of their implementing all these conditions, the retail outlets were allotted to be run by

the petitioners. They were under the fond hope that they will be made as regular or permanent dealers. However, unlike in the past where the land

owners who were allotted to run retail outlets, were made as regular dealers, the petitioners were not made as regular dealers, but kept as

Company Owned Company Operated (COCO) retail outlets and that too on nominal rents being given to land owners.

5. The petitioners by leasing out their lands to the Petroleum companies on long lease and by the promise held out under various guidelines, have

acquired a legal right and have claimed that they should be recognised as regular dealers. But, instead of recognising their vested right, the Oil

companies were calling for fresh applications in respect of those retail outlets. This is contrary to the guidelines for selection of retail outlet dealers.

Therefore, it was challenged on the ground that the oil companies cannot discriminate between one set of COCO operators and Ors. especially

after commissioning of the outlets. In the lease agreements which the petitioners have entered into, were signed with the hope that the dealership

will be issued in the name of the petitioners. Therefore, the respondents are estopped from giving dealership to any other persons.

6. It was during the month of October/November, 2003, the dealership policy was introduced and they commissioned new outlets. The petitioners

were not given regular dealerships. They were informed that a new policy is being introduced and the existing COCOs were converted. The action

of the respondents in not assigning the dealerships, but gainfully utilizing the lands given by the petitioners on nominal rents is not only arbitrary, but

violative of Articles 19(1)(g) of the Constitution of India. It is under these circumstances, the writ petitions came to be filed.

7. In most of the writ petitions, interim orders have been granted by this Court stating that as long as the writ petitions are pending, the Company

Owned Company Operated Retail outlets would continue to operate and no final decision will be taken until the matters are disposed of by this

Court. It was also stated that if the petitioners are found to have committed any breach of terms and conditions, subject to which they have been

permitted to operate, like adulteration of petroleum products, then the interim orders will not stand in the way of taking an appropriate action

against them. In doing so, the Government of India guidelines, dated 6.9.2006 was recorded.

8. On notice from this Court, the first respondent has filed a counter affidavit, dated 28.11.2006. In the counter affidavit, it was stated that the

Administered Pricing Machanism (APM) in the Petroleum sector was dismantled with effect from 1.4.2002. The selection process of

dealers/distributors was left to the Oil Marketing Companies (OMCs) themselves. The Government has no role to interfere with the selection

process. The OMCs like Indian Oil Corporation Limited, Hindustan Petroleum Corporation Ltd., Bharat Petroleum Corporation Ltd. and IBP

Co. Ltd. enjoy commercial freedom in the matter of marketing/distribution of dealership products through their respective networks of retail outlet

dealerships. The OMCs can choose their own locations for dealerships and can frame their own guidelines.

9. It was also stated that on 19.8.2003, the Ministry of Petroleum and Natural Gas had advised broad guidelines to the OMCs for selection of

dealers/distributors. Thereafter, the companies framed their own guidelines. Subsequently, on 27.12.2004, the Central Government advised

OMCs that they should temporarily suspend the allotment of dealerships under the land owners category in case it was to be done they must

follow the transparent procedures like advertisements. It was also stated that after detailed discussions with the OMCs, the guidelines which

provided allotment of dealerships under the land owners category without recourse to advertisements, was modified by a letter, dated 22.2.2005.

By this letter, the OMCs were directed to follow advertisements route for such cases so that there will be transparency. This policy was once again

reiterated on 17.11.2005. It was also advised that after the receipt of direct offers of lands and assessing the viability of location and if it is found to

be viable, the OMCs must release advertisements in two leading newspapers having circulation in the area notifying that they have received offers

of land for dealerships and invite for similar offers from others. The advertisement must also indicate that final selection of dealership will be on the

basis of evaluation of land in respect of guidelines.

10. It was also stated that on 6.9.2006, the Government of India after due consideration with the OMCs provided broader guidelines for

operation of retail outlets by OMCs and on the question of Company Owned Company Operated basis. The establishment of COCOs are done

at the expenses of OMCs. It was also stated that there are two kind of COCOs, one is permanent and the other is temporary. The permanent

COCOs are of strategic importance for the oil companies and they are operated permanently by the companies themselves with additional

manpower through labour contractors. Temporary COCOS are operated temporarily by the companies through labour contractors till

appointment of regular dealers.

11. Since huge investments are made by the companies for the procurement and establishment of temporary COCOs outlet, appointment of

regular dealers is necessary. Therefore, it was decided to phase out of temporary COCOs outlets preferably within one year. It was also stated

that the oil companies in respect of temporary COCOs retail outlets subject to suitability must first be handed over to the pending Letter of Intent

(LOI) holders as per the priorities indicated such as Special Scheme the Kargil allottees, Discretionary quota scheme, Corpus Fund Scheme and

other categories. In case no suitable LOI holdes are available to these categories, then dealerships should be advertised as per normal process.

Since it was also felt that there are huge pendency of LOI holders, emergent steps to be taken to offer temporary COCOs retail outlet to LOI

holders under the special scheme.

12. The Oil companies have also filed counter affidavits. In their counter affidavit, it was stated that the dealership selection policy implemented

during September/October, 2003 provides for conversion of COCOS to regular dealerships as per paragraphs 4.3.13.2. Apart from tracing out

the history of the policy taken by the Government and the oil companies, it was stated that all the temporary COCOs since their commissioning are

operated through maintenance and handling contract (M & H) Contract. It was also stated that filling up the lands and construction of retention

wall work were the condition agreed at the time of negotiations. Finalisation of lease, rentals, obtaining of NOCs and clearance were done as per

the statutory approval. It was also stated that the M & H contractors have to satisfy the requirement of various statutory authorities. Though M&H

contractor selection policy permitted the award of contractors to any suitable individuals like Fleet owners, truck operators, Taxi associations, such

award of contract cannot be granted to land owners. It may be in case of some of the contractors who are friends of land owners, might have been

selected as M&H contractors.

13. It was also stated that there was no written commitment to grant of dealerships. The petitioners should be aware of capital expenditure

involved in providing lands. They have agreed for the specified rentals at the time of singing of lease. It was stated as the policy dated 8.10.2002

was in force, certain existing COCOs were converted to dealerships in favour of the land owners/nominees as per the policy. After the new policy

of September/October, 2003, the award of dealership was done under the new policy. In September, 2006, the Government has issued guidelines

providing for different mode of allotment. Since the companies were under the administrative guidance of the Government of India, they are bound

to implement those guidelines. The petitioners did not have any enforceable legal right and there was no violation of any constitutional provision.

The present policy evolved by the Central Government is more transparent and consistent with the constitutional objectives.

14. In some of the cases, the petitioners have contended that they have already registered lease deeds before the introduction of new policy.

Therefore, that would amount to a firm commitment by the oil companies. In one case, it was stated that the lease deed was dated 2.11.2002,

which was prior to the 2003 policy.

15. In the other writ petitions though the prayer was differently moulded, the essence of their demand is that they should be allotted retail outlet

without giving it to any other person on the basis of the pre-revised policy.

16. Mr. V.T. Gopalan, learned Senior counsel appearing for some of the petitioners contended that the Central Government''s stand is at variance

with the OMCs and their stand shifted from time to time. The September, 2003 Policy had only done away on the land owners being granted retail

outlets. He took through the counter affidavit of the Union of India to establish that it was at variance with the Oil Marketing companies (OMCs).

17. He also submitted by relying upon the judgment of the Supreme Court in Union of India (UOI) and Others Vs. Godfrey Philips India Ltd., to

contend that though the concept of promissory estoppel cannot be enforced against the legislature in the exercise of its legislative functions nor

prevent the public authority enforcing the statutory provisions and also it cannot be enforced to compel the Government to implement the promises

which are contrary to law. In that case, the Supreme Court laid down parameters for enforcing the doctrine of promissory estoppel as an equitable

doctrine where equity if requires it must yield to the same. Therefore, it is necessary to refer to the following passage found in paragraph 13 of the

said judgment, which is as follows:

13. Of course we must make it clear, and that is also laid down in Motilal Sugar Mills case that there can be no promissory estoppel against the

Legislature in the exercise of its legislative functions nor can the Government or public authority be debarred by promissory estoppel from

enforcing a statutory prohibition. It is equally true that promissory estoppel cannot be used to compel the Government or a public authority to carry

out a representation or promise which is contrary to law or which was outside the authority or, power of the officer of the Government or of the

public authority to make. We may also point out that the doctrine of promissory estoppel being an equitable doctrine, it must yield when the equity

so requires; if it can be shown by the Government or public authority that having regard to the facts as they have transpired, it would be inequitable

to hold the Government or public authority to the promise or representation made by it, the Court would not raise an equity in favour of the person

to whom the promise or representation is made and enforce the promise or representation against the Government or public authority. The doctrine

of promissory estoppel would be displaced in such a case, because on the facts, equity would not require that the Government or public authority

should be held bound by the promise or representation made by it. This aspect has been dealt with fully in Motilal Sugar Mills case and we find

ourselves wholly in agreement with what has been said in that decision on this point.

18. The learned Senior Counsel also placed reliance upon the judgment of the Supreme Court in Southern Petrochemical Industries Co. Ltd. Vs.

Electricity Inspector and E.T.I.O. and Others, . The following passages found in paragraphs 122 to 130 were relied on and they are as follows:

122. Unlike an ordinary estoppel, promissory estoppel gives rise to a cause of action. It indisputably creates a right. It also acts on equity.

However, its application against constitutional or statutory provisions is impermissible in law. This aspect of the matter has been considered in State

of Bihar v. Project Uchcha Vidya, Sikshak Sangh stating: (SCC pp. 575-76, para 77)

77. We do not find any merit in the contention raised by the learned Counsel appearing on behalf of the respondents that the principle of equitable

estoppel would apply against the State of Bihar. It is now well known, the rule of estoppel has no application where contention as regards a

constitutional provision or a statute is raised. The right of the State to raise a question as regards its actions being invalid under the constitutional

scheme of India is now well recognised. If by reason of a constitutional provision, its action cannot be supported or the State intends to withdraw

or modify a policy decision, no exception thereto can be taken. It is, however, one thing to say that such an action is required to be judged having

regard to the fundamental rights of a citizen but it is another thing to say that by applying the rule of estoppel, the State would not be permitted to

raise the said question at all. So far as the impugned circular dated 18-2-1989 is concerned, the State has, in our opinion, a right to support the

validity thereof in terms of the constitutional framework.

123. Yet again in Mahabir Vegetable Oils (P) Ltd. v. State of Haryana it was stated: (SCC pp.632-33, para 38)

38. The promises/representations made by way of a statute, therefore, continued to operate in the field. It may be true that the appellants altered

their position only from August 1996 but it has neither been denied nor disputed that during the relevant period, namely, August 1996 to 16-12-

1996 not only have they invested huge amounts but also the authorities of the State sanctioned benefits, granted permissions. Parties had also taken

other steps which could be taken only for the purpose of setting up of a new industrial unit. An entrepreneur who sets up an industry in a backward

area unless otherwise prohibited, is entitled to alter his position pursuant to or in furtherance of the promises or representations made by the State.

The State accepted that equity operated in favour of the entrepreneurs by issuing Note 2 to the notification dated 16-12-1996 whereby and

whereunder solvent extraction plant was for the first time inserted in Schedule III i.e. in the negative list.

124. We may, however, notice that a survey of the earlier decisions has also been made by this Court in State of Punjab v. Nestle India Ltd.

wherein the law has been stated in the following terms: (SCC p. 474, para 25)

25. In other words, promissory estoppel long recognised as a legitimate defence in equity was held to found a cause of action against the

Government, even when, and this needs to be emphasised, the representation sought to be enforced was legally invalid in the sense that it was

made in a manner which was not in conformity with the procedure prescribed by statute.

125. Referring to Motilal Padampat Sugar Mills Co. Ltd. v. State of U.P. this Court observed: (Nestle India Ltd. case, SCC pp.475-76, para 29)

29. As for its strengths it was said: that the doctrine was not limited only to cases where there was some contractual relationship or other pre-

existing legal relationship between the parties. The principle would be applied even when the promise is intended to create legal relations or affect a

legal relationship which would arise in future. The Government was held to be equally susceptible to the operation of the doctrine in whatever area

or field the promise is made...contractual, administrative or statutory. To put it in the words of the Court:

The law may, therefore, now be taken to be settled as a result of this decision, that where the Government makes a promise knowing or intending

that it would be acted on by the promisee and, in fact, the promisee, acting in reliance on it, alters his position, the Government would be held

bound by the promise and the promise would be enforceable against the Government at the instance of the promisee, notwithstanding that there is

no consideration for the promise and the promise is not recorded in the form of a formal contract as required by Article 299 of the Constitution.

(SCC p.442, para 24)

* * *

[E]quity will, in a given case where justice and fairness demand, prevent a person from insisting on strict legal rights, even where they arise, not

under any contract, but on his own title deeds or under statute. (SCC p.425, para 8)

* * *

Whatever be the nature of the function which the Government is discharging, the Government is subject to the rule of promissory estoppel and if

the essential ingredients of this rule are satisfied, the Government can be compelled to carry out the promise made by it. (SCC p.453, para 33).

126. This Court distinguished its earlier decision in Kasinka Trading v. Union of India whereupon Mr Andhyarujina placed strong reliance, in the

following terms: (Nestle India Ltd. case, SCC p.479, para 40)

40. The case of Kasinka Trading v. Union of India cited by the appellant is an authority for the proposition that the mere issuance of an exemption

notification under a provision in a fiscal statute such as Section 25 of the Customs Act, 1962, could not create any promissory estoppel because

such an exemption by its very nature is susceptible to being revoked or modified or subjected to other conditions. In other words, there is no

unequivocal representation. The seeds of equivocation are inherent in the power to grant exemption. Therefore, an exemption notification can be

revoked without falling foul of the principle of promissory estoppel. It would not, in the circumstances, be necessary for the Government to

establish an overriding equity in its favour to defeat the petitioner''s plea of promissory estoppel. The Court also held that the Government of India

had justified the withdrawal of exemption notification on relevant reasons in the public interest. Incidentally, the Court also noticed the lack of

established prejudice to the promises when it said: (SCC p.289, para 22)

The burden of customs duty, etc. is passed on to the consumer and therefore the question of the appellants being put to a huge loss is not

understandable.

(See also Shrijee Sales Corporation v. Union of India and STO v. Shree Durga Oil Mills.) We do not see the relevance of this decision to the facts

of this case. Here the representations are clear and unequivocal.

127. In MRF Ltd. v. Asstt. CST wherein one of us (Katju, J.) was a member, Kasinka Trading555 has also been held to be inapplicable where a

right has already accrued; for instance, in a case where the right to exemption of tax for a fixed period accrues and the conditions for that

exemption have also been fulfilled, the withdrawal of that exemption cannot affect the already accrued right.

128. In MRF Ltd.8 it was held that the doctrine of promissory estoppel will also apply to statutory notifications.

129. We may also notice an interesting observation made by Beg, J. in Madan Mohan Pathak v. Union of India wherein the learned Judge in his

concurrent judgment while striking down the Life Insurance Corporation (Modification of Settlement) Act, 1976, opined: (SCC p.87, para 34)

34. Furthermore, I think that the principle laid down by this Court in Union of India v. Indo-Afghan Agencies Ltd. can also be taken into account

in judging the reasonableness of the provision in this case. It was held there (at SCR p.385):

Under our jurisprudence the Government is not exempt from liability to carry out the representation made by it as to its future conduct and it

cannot on some undefined and undisclosed ground of necessity or expediency fail to carry out the promise solemnly made by it, nor claim to be the

judge of its own obligation to the citizen on an ex parte appraisement of the circumstances in which the obligation has arisen.

In that case, equitable principles were invoked against the Government. It is true that, in the instant case, it is a provision of the Act of Parliament

and not merely a governmental order whose validity is challenged before us. Nevertheless, we cannot forget that the Act is the result of a proposal

made by the Government of the day which, instead of proceeding u/s 11(2) of the Life Insurance Corporation Act, chose to make an Act of

Parliament protected by emergency provisions. I think that the prospects held out, the representations made, the conduct of the Government, and

equities arising therefrom, may all be taken into consideration for judging whether a particular piece of legislation, initiated by the Government and

enacted by Parliament, is reasonable.

130. We, therefore, are of the opinion that doctrine of promissory estoppel also preserves a right. A right would be preserved when it is not

expressly taken away but in fact has expressly been preserved.

19. M/s. S. Doraisamy, P. Jagadeesan and V.P. Sengottuvel, learned Counsel for various petitioners have also made their submissions and have

also adopted the arguments advanced by the learned Senior Counsel.

20. Mr. T.R. Rajagopalan, learned Senior Counsel appearing for the Oil Companies contended that no promise was held out on the question of

dealership. The execution of lease deeds were not on the basis of any promise. He also relied upon the judgment of this Court in S. Pasupathi and

Ors. v. Union of India and Ors. in W.P. No. 40381 of 2006, dated 17.7.2007. In that case, a claim was made against the Hindustan Petroleum

Corporation Ltd. (HPCL) on similar lines. Rejecting the stand of the petitioners, this Court held in paragraphs 9 and 10 which is as follows:

9. As far as the other contention of the learned senior counsel for the petitioners, with the legitimate expectation, the petitioners have invested huge

amount in establishing the retail outlets is concerned, it is a specific case of the first respondent as well as the second and third respondents that all

the formalities were complied with by the Oil Marketing Companies. Apart from this, the averment of the petitioners that they have invested huge

amount is also specifically denied by the respondents 2 & 3. Besides, it is a specific case of the second and third respondents that the retail outlet is

the property of the HPCL, as it was established by the HPCL by spending its money. Negativing this, no reply has been filed by the petitioners. As

such, the argument of the learned senior counsel for the petitioners that the respondents are estopped from issuing the advertisements will not

stand.

10. The other contention of the learned senior counsel for the petitioners that easing out of the petitioners is arbitrary is concerned, it has been

specifically averred in the counter affidavit filed by the respondents that the advertisement has been called for only for the offer of the land, besides,

Company Owned and Company operated retail outlets were established by the HPCL, at the places leased out by the petitioners 1,3,5,7,8,9 and

11, pending selection of the regular dealers agreements for providing labour were entered into between the HPCL and the petitioners 2,4,6 & 10

and adhoc operation with the petitioner No. 12. As such, it cannot be construed that the petitioners are existing dealers. Consequently, question of

leasing out does not arise at all. Having entered into an agreement for lease of vacant land, they were provided with consideration for the same

also. Apart from this, the petitioner has not made out any case to grant the relief sought for. Though a stand is taken that the dealership was given

to the adhoc operators, no particulars have been brought to the notice of this Court by the petitioners in this regard.

21. Though it is contended that a writ appeal is pending against the said order, the petitioners were not able to give the number of the writ appeal.

The learned Senior Counsel for respondents also produced an unreported judgment of the Karnataka High Court in Y.T. Narendra Babu v. Union

of India and Ors. in W.P. No. 1016 of 2007, dated 28.7.2009 in order to complete the decisions on the issue. In the said judgment, a learned

Judge of the Karnataka High Court held that promissory estoppel and the concept of legitimate expectations will apply to the case of petitioners

since OMCs were enjoying commercial freedom from 1.4.2002 and that the guidelines were issued by the companies only from 19.8.2003.

Therefore, in that case, a direction was issued to grant dealerships Co-terminus with the lease of land on which the retail outlets are established and

on similar terms and conditions as in the case of the other land owners immediately prior to February, 2003. The contention of the oil companies

that their policy of the year 2002 was suspended from February, 2003 was not held to be substantiated. But, the learned Senior counsel for the

respondents stated that the matter has been taken on appeal by the OMCs.

22. The learned Senior Counsel also placed reliance upon the judgment of the Andhra Pradesh High Court and the judgment of the Delhi High

Court in this regard.

23. The judgment of the Andhra Pradesh High Court was rendered in a batch of writ petitions in W.P. Nos. 5351 of 2007, etc., which were

disposed of by a common order, dated Nil (January, 2008). After referring to the similar contentions raised before the Andhra Pradesh High

Court, the learned Judge of that High Court rejected the contentions. The learned Judge rejected the ground of attack on the basis of arbitrariness

and also legitimate expectations. The following passage found in paragraph 70 of that judgment may be extracted below:

70. ...In the light of the settled principles of law in relation to the power of judicial review in interfering with such policy decisions, it is needless to

say that writ courts are expected to be slow in interfering with such policy decisions. These are cases where parties are bound by the terms and

conditions of the respective lease deeds. The change in policy is an uniform policy and, no doubt, in the broad policy laid down by the Union of

India, the modalities or the details had not been elaborated but the fundamentals of the policy had been clearly spelt out and in pursuance thereof,

the Oil companies had adopted the present policy, which cannot be said to be either arbitrary or discriminatory. Further, the applicability of the

promissory estoppel or the legitimate expectation also would not arise. At any rate, this Court is thoroughly satisfied that this uniform policy had

been adopted only in public interest. Hence, in the light of the clear guidelines which had been specified above, and also the clear stands taken by

the Union of India and also the respective Oil Companies which had been referred to above, this Court is thoroughly satisfied that these Writ

Petitions are devoid of merit and the same are liable to be dismissed.

24. Similarly, a division bench of the Delhi High Court on hearing the appeals from the order of the learned Single Judge of the court in granting the

relief to similarly placed persons, reversed the order of the learned Single Judge of that Court by a common judgment dated 8.2.2008 in LPA No.

158/2007. In that judgment, they have held that none of the petitioners were granted Petroleum retail outlets by the companies and there was no

vested right accrued to them. After obtaining the lease deeds, the M&H contract was executed on the three persons, who were some times, may

be the petitioners. The legality of the policy issued by the oil companies were not under challenge. Though there is vested right was claimed for

allowing dealership of petrol bunk, in the lease deed there is no express or implied promise that retail outlet will be handed over to the landlord. On

the contrary, the oil companies have incurred huge expenses to the length of Rs. 30 to 50 lakhs on creation of necessary infrastructure. By the

terms of the agreement, it was only the lease creating jural relationship with the landlord and tenant. By the revised policy, there are many special

categories will have to be adopted to LOI. Under the contract terms, the agreement is for a period of one or two years. The company is at liberty

to terminate the agreement by giving one month notice. The COCO outlets are run by the contractors, who may some time happen to be the land

owners and the question of legitimate expectation will not arise.

25. It was also stated that the petitioners were not entitled for any relief. Only in case where there was doubt regarding the land owners, the

petitioners are entitled to transaction with the oil companies based on an understanding and the other circumstances. Thus, the questions were kept

separated and a direction was issued to the oil companies to file a counter affidavit. In other respect, the writ appeals were allowed and the order

of the learned Single Judge was reversed.

26. Aggrieved by the order of the division bench of the Delhi High Court, the aggrieved petitioners moved the Supreme Court. The Supreme

Court, excepting in certain matters, where agreements were executed between the parties within the time period when the earlier policy was in

force i.e. from 8.10.2002 to 5.2.2003, all other SLPs were dismissed, thereby confirming the order of the division bench of the Delhi High Court

by a speaking order.

27. In a chart furnished by Mr. T.R. Rajagopal, learned Senior Counsel, in W.P. No. 41313 of 2006, one C. Paneerselvam, the sixth petitioner

had entered into an agreement of lease on 26.6.2002 and commissioned an outlet on 28.6.2002 and the lease deed itself was registered on

21.11.2002. Hence, in all other writ petitions, no relief can be granted as prayed for by the petitioners.

28. Mr. S. Doraisamy, learned Counsel for the petitioner in W.P. Nos. 6116 and 6118 of 2007 contended that there was an offer by a letter

dated 11.10.2004, but the offer was given by the subordinate officers and long after the new policy had come into force. But, in the case of one

Mangaiyarkarasi (first petitioner in W.P. No. 14829 of 2007), the said offer was dated 10.1.2000. It merely stated that in the event of the

company not operating as COCO basis and decides to operate through any dealer, an offer will be made to the landlord and the landlord should

exercise his option within thirty days.

29. Therefore, except in case of the first petitioner Mangaiyarkarasi in W.P. No. 14829 of 2007 and the sixth petitioner Paneerselvam in W.P.

No. 41313 of 2006, in all other cases no relief can be given to the petitioners. The order of the Andhra Pradesh High Court and the Delhi High

Court as well as this Court in respect of HPCL Ltd., having concluded the issue and this Court as it is in full agreement with those decisions, the

relief claimed by the petitioners, except in case of the first petitioner Mangaiyarkarasi in W.P. No. 14829 of 2007 and the sixth petitioner

Paneerselvam in W.P. No. 41313 of 2006, cannot be countenanced by this Court.

30. In the light of the above, W.P. No. 14829 of 2007 in respect of the first petitioner, (i.e. P.Mangaiarkarasi) alone and W.P. No. 41313 of

2006 in respect of the 6th petitioner, (i.e. C. Pannirselvam) alone are allowed. W.P. No. 14829 of 2007 and W.P. No. 41313 of 2006 in respect

of others and all other writ petitions will stand dismissed. No costs. Consequently, connected miscellaneous petitions also stand dismissed.